



# भारत का राजपत्र The Gazette of India

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असाधारण  
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

सं. 4874]

नई दिल्ली, शुक्रवार, दिसम्बर 6, 2024/अग्राहायण 15, 1946

No. 4874]

NEW DELHI, FRIDAY, DECEMBER 6, 2024/AGRAHAYANA 15, 1946

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 4 दिसम्बर, 2024

का.आ. 5269(अ).—केंद्रीय सरकार ने, विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) और (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की भारत के राजपत्र, असाधारण, भाग 2, खंड 3, उपखंड (ii), तारीख 14 मई, 2024 में प्रकाशित अधिसूचना संख्यांक का.आ. 1983 (अ), तारीख 14 मई, 2024 (जिसे इसमें इसके पश्चात् उक्त अधिसूचना कहा गया है) द्वारा लिबरेशन टाइगर्स ऑफ़ तमिल ईलम (एलटीटीई) को विधिविरुद्ध संगम के रूप में घोषित किया था;

और, केंद्रीय सरकार ने, उक्त अधिनियम की धारा 4 की उपधारा (1) के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii), तारीख 5 जून, 2024 में प्रकाशित अधिसूचना संख्यांक का.आ. 2196 (अ), तारीख 5 जून, 2024, द्वारा दिल्ली उच्च न्यायालय की न्यायाधीश न्यायमूर्ति मनमीत प्रीतम सिंह अरोड़ा से मिलकर बनने वाले विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण (जिसे इसमें इसके पश्चात् उक्त अधिकरण कहा गया है) का गठन किया था;

और, केंद्रीय सरकार ने, उक्त अधिनियम की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना को तारीख 12 जून, 2024 को उक्त अधिकरण को यह न्यायनिर्णयन के प्रयोजन के लिए कि क्या लिबरेशन टाइगर्स ऑफ़ तमिल ईलम (एलटीटीई) को विधिविरुद्ध संगम के रूप में घोषित किये जाने का पर्याप्त कारण था या नहीं, निर्दिष्ट की थी;

और, उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना में की गई घोषणा की पुष्टि करते हुए तारीख 12 नवम्बर, 2024 को एक आदेश पारित किया था।

अतः अब, केंद्रीय सरकार, उक्त अधिनियम की धारा 4 की उपधारा (4) के अनुसरण में, उक्त अधिकरण के आदेश को प्रकाशित करती है, अर्थात् :-

“

---: अधिकरण का आदेश अंग्रेजी भाग में छपा है :---

(न्यायमूर्ति मनमीत प्रीतम सिंह अरोड़ा)

विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण”

[फा. सं. 11034/2/2024-सीटी-II]

अभिजीत सिन्हा, संयुक्त सचिव

## MINISTRY OF HOME AFFAIRS

### NOTIFICATION

New Delhi, the 4th December, 2024

**S.O. 5269(E).**—Whereas, the Central Government in exercise of the powers conferred by sub-sections (1) and (3) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as the said Act), declared the Liberation Tigers of Tamil Eelam (LTTE) as an unlawful association *vide* notification of the Government of India in the Ministry of Home Affairs, number S.O. 1983 (E), dated 14<sup>th</sup> May, 2024 (hereinafter referred to as the said notification), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated 14<sup>th</sup> May, 2024;

And, whereas, the Central Government, in exercise of the powers conferred by sub-section (1) of section 5 read with sub-section (1) of section 4 of the said Act constituted the Unlawful Activities (Prevention) Tribunal (hereinafter referred to as the said Tribunal) consisting of Justice Manmeet Pritam Singh Arora, Judge, High Court of Delhi *vide* notification of the Government of India in the Ministry of Home Affairs, number S.O. 2196 (E), dated 5<sup>th</sup> June, 2024, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated 5<sup>th</sup> June, 2024;

And, whereas, the Central Government, in exercise of the powers conferred by sub-section (1) of section 4 of the said Act referred the said notification to the said Tribunal on 12<sup>th</sup> June, 2024 for the purpose of adjudicating whether or not there was sufficient cause for declaring the Liberation Tigers of Tamil Eelam (LTTE) as an unlawful association;

And, whereas, the said Tribunal, in exercise of the powers conferred by sub-section (3) of section 4 of the said Act, passed an order on 12<sup>th</sup> November, 2024, confirming the declaration made in the said notification.

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the order of the said Tribunal, namely:-

**BEFORE THE UNLAWFUL ACTIVITIES  
(PREVENTION) TRIBUNAL**

**IN THE MATTER OF:**

**GAZETTE NOTIFICATION NO. S.O. 1983(E) DATED 14<sup>th</sup> MAY, 2024 DECLARING THE LIBERATION TIGERS OF TAMIL EELAM (LTTE) AS AN ‘UNLAWFUL ASSOCIATION’ UNDER SUB-SECTION (1) and (3) OF SECTION 3 OF THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967**

**AND**

**GAZETTE NOTIFICATION NO. S.O. 2196(E) DATED 5<sup>th</sup> JUNE, 2024 CONSTITUTING THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL**

**CORAM :**

**HON’BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**PRESENT:** Mr. Chetan Sharma, ASG, Mr. Ripu Daman Bhardwaj, CGSC, Mr. Anurag Ahluwalia, CGSC, Mr. Mukul Singh, CGSC, Mr. Balendu Shekar, CGSC, Mr. Apoorv Kurup, CGSC, Mr. Jay Prakash Singh, CGSC, Dr. B.Ramaswamy, CGSC along with Mr. Amit Gupta & Mr. Abhay Singh, Advocates for UoI and Mr. Abhijit Sinha, Joint Secretary and Mr. Nitesh Kumar Prasad, S.O. Ministry of Home Affairs.

Mr. Sabarish Subramanian, Standing Counsel for the State of Tamil Nadu

Mr. R.Murali, Mr. G. Ananda Selvam and Mr. MSM Aasai Thambi, Advocates for Mr. Vaiko.

Mr. Vinal Kapoor, Registrar, Tribunal.

**ORDER**

12.11.2024

**PREFATORY FACTS**

1. By a Gazette Notification No. S.O. 1983(E) dated 14<sup>th</sup> May, 2024, the Government of India has declared the Liberation Tigers of Tamil Eelam (hereinafter referred as LTTE) as an ‘unlawful association’. This Notification has been issued by the Government of India in consonance with powers conferred upon it under the provisions of sub-sections (1) and (3) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred as the Act) and it is directed that the Notification shall, subject to any order that may be made under Section 4 of the Act, have effect on and for a period of five (5) years from the date of its publication in the official gazette.

2. By another Notification No. S.O. 2196(E) dated 5<sup>th</sup> June, 2024, the Government of India, in exercise of the powers conferred upon it by sub-section (1) of Section 5 of the Act, has constituted “The Unlawful Activities (Prevention) Tribunal”, consisting of the undersigned, for the purpose of adjudicating whether or not there is sufficient cause for declaring LTTE as an unlawful association.

3. By letter No.11034/2/2024-CT-II dated 12<sup>th</sup> June, 2024, the Government of India, Ministry of Home Affairs (MHA), (CTCR Division), New Delhi, forwarded to the Tribunal reference along with a brief background note on the activities of LTTE along with Annexures-I to IV indicating the aims, objectives and activities of LTTE. The documents annexed to the background note comprise of a copy of the Constitution of the People’s Front Liberation Tigers (PFLT); details of the four cases registered/arrests made therein etc. which indicate evidence with regard to continuing activities of LTTE, pro-LTTE elements/groups including Tamil chauvinists groups in Tamil Nadu and elsewhere since May, 2019; details to show that LTTE still has a strong presence in Tamil Nadu. The background note also enclosed copies of earlier notifications publishing the orders of the earlier Tribunals upholding the proscription on LTTE since 1992.

4. The Notification dated 14.05.2024 reads as under: -

“Whereas the Liberation Tigers of Tamil Eelam (hereinafter referred to as the LTTE), is an association based in Sri Lanka but having its supporters, sympathisers and agents in the territory of India;

And whereas, the LTTE’s objective for a separate homeland (Tamil Eelam) for all Tamils threatens the sovereignty and territorial integrity of India, and amounts to cession and secession of a part of the territory of India from the Union and thus falls within the ambit of unlawful activities;

And whereas, the Government of India is of the opinion that LTTE, is still indulging in the activities which are prejudicial to the integrity and security of the country, inter-alia, on the following grounds, namely:-

- (i) even after its military defeat in May 2009 in Sri Lanka, has not abandoned the concept of ‘Eelam’ and has been clandestinely working towards the ‘Eelam’ cause by undertaking fund raising and propaganda activities. The remnant LTTE leaders or cadres have also initiated efforts to regroup the scattered activists and resurrect the outfit locally and internationally;
- (ii) the pro-LTTE groups/elements continue to foster a separatist tendency amongst the masses and enhance the support base for LTTE in India and particularly in Tamil Nadu, which will ultimately have a strong disintegrating influence over the territorial integrity of India;
- (iii) the LTTE sympathizers living abroad continue to spread anti-India propaganda among Tamils holding the Government of India responsible for the defeat of the LTTE, which, if not checked, is likely to develop a sense of hate among Tamil Populace towards the Government of India and the Indian Constitution;
- (iv) despite the ban in force, the activities of pro-LTTE organizations and individuals have come to notice and, attempts have been made by these forces to extend their support to the LTTE;
- (v) the LTTE leaders, operatives and supporters have been inimically opposed to India’s policy on their organization and action of the State machinery in curbing their activities.
- (vi) cases have been registered under the Unlawful Activities (Prevention) Act, 1967, against LTTE, pro-LTTE groups or elements since the last notification published vide number S.O. 1730(E), dated 14<sup>th</sup> May, 2019 which indicate that LTTE and its remnant cadres, followers and supporters are involved in various criminal activities, including smuggling of illegal drugs, arms for furtherance of objective of the LTTE.

And whereas, the Government of India is of the opinion that the aforesaid activities of the LTTE pose a threat to, and are detrimental to the sovereignty and territorial integrity of India as also to the public order and, therefore, it should be declared as an unlawful association;

And whereas the Government of India is further of the opinion that – since LTTE continues –

- (i) with its disruptive, separatist and secessionist activities, which are prejudicial to the integrity and sovereignty of India; and
- (ii) its strong anti-India posture thereby posing a grave threat to the security of Indian nationals,

It is necessary to declare LTTE as an unlawful association with immediate effect;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (3) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Government of India hereby declares the Liberation Tigers of Tamil Eelam (the LTTE) as an unlawful association and directs that this notification shall, subject to any order that may be made under section 4 of the said Act, have effect for a period of five years from the date of its publication in the Official Gazette.”

5. Section 4(2) of the Act provides that on receipt of reference, the Tribunal shall call upon the association affected, by notice in writing to show cause within 30 days from the date of service of such notice, why the association should not be declared unlawful.

6. Rule 6 of the Unlawful Activities (Prevention) Rules, 1968 (for short, the Rules) deals with mode of service of notice issued under Section 4(2) of the Act on the affected association and the said Rule reads as under:-

**“6. Service of notice issued by the Tribunal-**

Every notice referred to in sub-section (2) of Section 4 shall be served on the affected association in such manner as the Tribunal may think fit and all or any of the following modes may be followed by the Tribunal in effecting service of such notice, namely:-

- (a) by affixing a copy of the notice to some conspicuous part of the office, if any, of the association; or
- (b) by serving a copy of the notice, where possible, on the principal office bearers, if any, of the association, by registered post or otherwise; or
- (c) by proclaiming by beat of drum or by means of loudspeakers the contents of the notification in the area in which the activities of the association are ordinarily carried on.”

7. On receipt of the Notification appointing this Tribunal, this Tribunal listed the reference for preliminary hearing on 14.06.2024. Accordingly, after considering the material placed on record, this Tribunal vide order dated 14.06.2024 directed that the notice under Section 4(2) of the Act be issued to LTTE to show cause within 30 days as to why it be not declared unlawful within the meaning of the Act. The said notice was directed to be served on LTTE in the following manner:

- i. Copies of the notice along with Gazette Notification dated 14.05.2024 be affixed at some conspicuous part of the offices of Liberation Tigers of Tamil Eelam (LTTE), if any, in India and Sri Lanka;
- ii. Notice along with Gazette Notification dated 14.05.2024 be also served on the aforesaid association by publication in two daily National Newspapers (all India Edition), one in English and one in Hindi and also in two local newspapers having wide circulation in the State of Tamil Nadu where the activities of the Association are ordinarily carried on in vernacular language within three weeks from today.
- iii. Service be also effected by Speed Post / Registered A.D. on the Office bearers of the Liberation Tigers of Tamil Eelam (LTTE) at their last known addresses or if under detention through the Superintendent (Jail) concerned.
- iv. By a proclamation, by beating of drums as well as loudspeakers about the contents of the notice and Gazette Notification dated 14.05.2024 in the area where the activities of the Association were or are believed to be ordinarily carried on.
- v. The notice along with Gazette Notification dated 14.05.2024 be also displayed on the notice board of the office of the District Magistrate/Deputy Commissioner/Tehsildar at the Headquarter of the District or the Tehsil in the State of Tamil Nadu wherein the activities of the Association were or are believed to be ordinarily carried on.
- vi. By publishing on the website of Ministry of Home Affairs (<https://www.mha.gov.in>).
- vii. Notice be also served on the State of Tamil Nadu through its Chief Secretary.
- viii. Besides the aforesaid modes, notice and the Gazette Notification dated 14.05.2024 be also served upon the LTTE by way of broadcasting on All India Radio/electronic media of State Edition at the prime-time and shall also be pasted at the prominent places in the State where the activities of the Association were or are believed to be carried on.

8. Pursuant to the order dated 14.06.2024, affidavits both dated 23.07.2024 of Mr. Rajeev Kumar, Under Secretary, CTCR Division of Ministry of Home Affairs, Government of India, New Delhi and of Mr. G. Shashank Sai, IPS, SP, ‘Q’ Branch CID, Tamil Nadu were filed thereby affirming that in compliance with Tribunal’s order dated 14.06.2024, the following actions were taken:

- a. The notice dated 14.06.2024 issued by the Registrar of the Tribunal, to the LTTE was uploaded by the Ministry of Home Affairs, Government of India, on its official website viz. [www.mha.gov.in](http://www.mha.gov.in) under the link “WHAT’S NEW” on 20.06.2024.
- b. On behalf of Ministry of Home Affairs, Central Bureau of Communication (CBC), Ministry of Information and Broadcasting has published the Notice dated 14.06.2024 along with Notification dated 14.05.2024 on 20.07.2024 through 49 editions of leading newspapers in English (Saturday Edition) in all States through all India Editions in English and Hindi languages.
- c. It has also been stated that the Notice dated 14.06.2024 has been broadcast on All India Radio, Chennai, telecast by the Regional News Unit, Doordarshan Kendra, Chennai (in the Prime News Bulletin) and

exhibition of Gazette Notification on Notice Boards of the Collectorate, all Taluk Offices, District Police Offices and Sub-Divisional Offices in Tamil Nadu.

- d. The notice has also been published in one Tamil Daily 'Daily Thanthi' and 'Dinakaran' on 6.7.2024.
- e. It has also been stated in the affidavit that the Notice dated 14.06.2024 along with Gazette Notification dated 14.05.2024 was circulated by the Government of Tamil Nadu to all Collectors in the districts and other police officers to exhibit in the notice board of the Collectorates, Taluk Offices, Revenue Divisional Offices, Police Headquarters, Police Commissionerates, District Police Offices and Police Stations in Tamil Nadu.
- f. It has further been stated that the notice was broadcast in All India Radio in two Akashvani (AIR) bulletins on 03.07.2024.
- g. It has also been stated in the affidavit that a news item with respect to the service of notice was also telecast in Doordarshan Prime News Bulletin and in all the hourly News Express Bulletins and also in its official social media handles viz. Twitter, Instagram, Facebook and YouTube.
- h. It has been further stated in the affidavit dated 06.08.2024 filed by Mr. Rajeev Kumar, Under Secretary, MHA that the copies of show cause notice along with the Gazette Notification dated 14.5.2024 and the Tribunal's order dated 14.6.2024 were forwarded to the High Commission of India in Sri Lanka to be effected on the office bearers of the LTTE, if any, under detention in Sri Lanka. It has been stated that the Ministry of External Affairs has confirmed that the High Commission of India in Colombo has given wide publicity to the Notice by publishing the same in an English daily newspaper 'Daily News' and Tamil Daily 'Virakesari' on 01.8.2024, both published from Sri Lanka.

9. From the above referred affidavits and the documents annexed thereto, the Tribunal was satisfied that notice in writing to show cause has duly been published and served on LTTE in the manner as directed by the Tribunal in terms of Rule 6 of the Rules.

10. An Application [No. LTTE - 1/2024] was filed by Mr. Vaiko, General Secretary of Marumalarchi Dravida Munnetra Kazhagam (MDMK) for impleadment. The applicant in his application for impleadment submitted that for more than sixty-five (65) years the Sri Lankan Government has been carrying out brutal genocide attack on the Tamils living in Northern and Eastern part of the said Sri Lanka island with crude intention of decimating the entire Tamil race, taking possession of their lands and settling the Sinhalese people in those acquired area. It was stated that more than three and half lakh Tamils have been mercilessly massacred and more than ten lakh Tamils have been constrained to leave their native soil and take shelter in number of countries all over the world. It was further stated that more than one and half lakh Sri Lankan Tamils, who are known as Eelam Tamils have settled in Tamil Nadu alone as refugees. It is stated that the people of Tamil Nadu, who have umbilical cord relationship with the Eelam Tamils, have extended their whole hearted support for the legitimate struggle of Sri Lankan Tamils. The applicant during arguments submitted that to ensure that LTTE is not adversely affected without reasonable opportunity; to ensure principles of natural justice are applied and for better adjudication of this case, the applicant be permitted to be impleaded as a party to the proceedings before this Tribunal so as to participate at trial. Notice of this application was issued and reply on behalf of the Government of India to the application was filed on 7.8.2024 and rejoinder thereto was also filed on 19.8.2024.

11. The learned Additional Solicitor General ('ASG') for Union of India, on the other hand, referred to Section 4(3) of the Act to argue that as per this sub-section, only an office bearer or member of the Association i.e., LTTE can be heard in the inquiry to be held by the Tribunal and, there is mention in the application that the applicant i.e. Mr. Vaiko is not a member of the banned Association or its office bearer; therefore, the applicant cannot be impleaded as a party. He stated that similar relief was sought by the applicant in the proceedings held before the previous Tribunals; however, the applicant's prayer for impleadment was not acceded to. He stated no new facts have been set out in the application for justifying the impleadment. He stated that the facts pleaded are identical to the facts as they stood in the years 2014 and 2019.

12. In response, learned counsel for the applicant i.e. Mr. Vaiko fairly conceded that there are no additional/new grounds to justify the prayer for impleadment and the facts as they stood in the years 2014 and 2019 continue to remain unchanged. He further submitted that the applicant would be satisfied, if he is granted the limited liberty as was granted by the earlier Hon'ble Tribunals i.e. to participate in the proceedings and making final arguments.

13. After hearing both the parties and perusing the submissions made, this Tribunal decided the application No. LTTE-01/2024 on 03.09.2024 and passed the following order, which reads as under: -

“....

In the considered view of this Tribunal and in view of the earlier orders passed dated 03.09.2014 and 16.08.2019 passed in identical circumstances, as well as keeping in view the order dated 25.09.2010 passed by Justice Vikramajit Sen, the application of Vaiko is hereby allowed to the limited extent that he will be entitled to address arguments on the basis of the material produced during the enquiry. It is clarified that applicant will have no right to cross-examine the witnesses of the Government or to produce his own witness. No grounds have been made out by the applicant in the application or during the oral arguments for taking a view different from the order dated 03.09.2014 and 16.08.2019. Accordingly, the relief for impleadment is rejected.

The applicant will be permitted to inspect the Court file in accordance with rules.”

(Emphasis supplied)

14. Another application [No. LTTE-2/2024] was filed on behalf of Mr. Visuvanathan Rudrakumaran seeking impleadment. It was stated in the application that the applicant is an Eelam Tamil, born in Sri Lanka and is presently a permanent resident of United States of America (USA). It was stated that the applicant was a legal advisor to the LTTE and had participated in the peace process between LTTE and the Government of Sri Lanka in and before 2009. It was stated that after the end of the conflict in Sri Lanka, between LTTE and Government of Sri Lanka, LTTE announced formation of Transnational Government of Tamil Eelam (TGTE), which is a democratically elected Government of Tamils from the island of Sri Lanka living in countries around the world. It was stated TGTE had held elections and the applicant is the Prime Minister of TGTE having been consistently elected for the years in 2010, 2013 and 2018. It was stated that TGTE is an independent political endeavour and is not in any way connected to LTTE. It was further stated that TGTE seeks support of the Indian Government for realization of aspirations of Eelam Tamils and a ban on LTTE imposes a restraint and creates a chilling effect on the supporters of TGTE in India. It was stated that TGTE wishes to espouse its cause of an independent state for Tamil Eelam in a Gandhian non-violent way and the cause of LTTE and TGTE is identical.

15. Learned counsel appearing on behalf of the applicant/TGTE submitted that the close connection of TGTE with LTTE was recognized by Government of India as far back as in 2010 and in this regard, he relied upon the observation made in judgment dated 12.11.2010 published in the Tamil Nadu Government Gazette pertaining to the declaration made by the Government of India vide notification dated 14.05.2010 declaring LTTE to be an unlawful Association.

16. Learned ASG appearing on behalf of Union of India submitted that the applicant/TGTE had earlier sought impleadment in the proceeding held by the previous Tribunal in 2019, which was dismissed. He stated that the applicant has no right to either seek impleadment or be heard as the applicant is neither a member nor an office bearer of LTTE and is also a foreign national. He further argued that the jurisdiction of the Tribunal under Section 4(3) of the Act cannot be extended to permit impleadment of a foreign national, who on his own showing is not a member or office bearer of LTTE.

17. After perusing the pleadings and considering the submissions of the parties, this Tribunal rejected the application for being devoid of any merits by passing the order dated 11.09.2024. The relevant paragraphs of the order passed by the Tribunal read as under:-

“11. This Tribunal also finds merit in the submission of the Union of India that since the applicant is neither a citizen nor a resident of India, he cannot seek parity with Mr. Vaiko, the applicant in IA. LTTE 1/2024, who is a citizen of India and resides in India. Mr. Vaiko has expressly stated in his application that he is a sympathiser of LTTE and since the notification dated 14.05.2024 recognizes the existence of sympathisers of LTTE in India, a limited right of addressing arguments has been afforded to Mr. Vaiko and he as well has not been impleaded as he does not satisfy the conditions of Section 4(3) of UAPA. The applicant in his application has at paragraph '7' categorically stated that he is not connected with LTTE and he therefore cannot claim parity with Mr. Vaiko. The applicant is neither a citizen nor a resident of India and the applicant has failed to satisfy this Tribunal that he is in any manner affected by the banning notification dated 14.05.2024, which is with respect to activities of LTTE in India. For this reason, the prayer of the applicant for seeking right akin to Mr. Vaiko is hereby rejected.

12. The applicant herein had sought impleadment in the earlier proceedings as well conducted by the Tribunal presided over by Justice Sangita Dhingra Sehgal while testing the banning notification dated 14.05.2019. In the said proceedings, the Tribunal dismissed the said application holding that the applicant had failed to show any locus to be impleaded and had taken note of the averment of this applicant that he is not connected with LTTE. The said order was not challenged by the applicant herein even after the final

order dated 06.11.2019 passed by the said Tribunal. The applicant was conscious of the basis of the findings returned in the said order, however, the applicant has consciously in this application not asserted that he is either a member or an office bearer of LTTE. On the contrary, the applicant has reiterated that he is not connected with LTTE. Therefore, this application seeking impleadment in 2024 on identical grounds as they existed in 2019 fails to make out any distinguishing ground for permitting impleadment in the proceedings for the notification dated 14.05.2024.

13. Accordingly, the present application filed by the applicant for seeking impleadment under Section 4(3) of the UAPA being devoid of any merits is hereby rejected. Consequentially, the objections/written statement dated 12.07.2024 sent through e-mail are also rejected and directed not to be taken on the record.”

18. The order dated 11.09.2024 passed by this Tribunal rejecting the aforesaid application No. LTTE-02/2024 was challenged by the applicant by filing a writ petition before a Division Bench of this Court being WP(Crl.) No. 3354/2024. The said writ petition was heard and dismissed by a Division Bench of this Court on 28.10.2024 by passing the following order, which reads as under:-

“38. As can be seen from the above, in a writ petition as the present one, unless there is perversity, arbitrariness or unreasonableness, interference is not justified. The question that then arises is, whether the impugned order of the Tribunal deserves to be interfered with as sought for by the Petitioner.

39. Section 4 of UAPA is clear to the effect that the inquiry by the Tribunal is to be conducted after issuance of a show cause notice to the association. Such a cause can be shown by either the association, its office bearers or the members thereof. Section 4 of UAPA reads as under:

4. Reference to Tribunal. (1) Where any association has been declared unlawful by a notification issued under sub-section (1) of section 3, the Government of India shall, within thirty days from the date of the publication of the notification under the said sub-section, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful.

(2) On receipt of a reference under sub-section(1), the Tribunal shall call upon the association affected by notice in writing to show cause, within thirty days from the date of the service of such notice, why the association should not be declared unlawful.

(3) After considering the cause, if any, shown by the association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the manner specified in section 9 and after calling for such further information as it may consider necessary from the Government of India or from any office-bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association to be unlawful and make, as expeditiously as possible and in any case within a period of six months from the date of the issue of the notification under sub-section(1) of section 3, such order as it may deem fit either confirming the declaration made in the notification or cancelling the same.

(4) The order of the Tribunal made under sub-section(3) shall be published in the Official Gazette.

40. In the present case, the application for impleadment filed by the Petitioner clearly states the following:

- i) That the LTTE, as on date, does not have any organizational structure, offices, officers, assets, headquarter or any other characteristics, in effect therefore, the LTTE does not exist;
- ii) That the TGTE claims to be a trans-national government of the Tamil Eelam and has persons involved in it beyond those who were even LTTE members. The TGTE is not the LTTE;
- iii) The TGTE does not subscribe to all the ideologies of LTTE;
- iv) TGTE espouses an independent Tamil Eelam using non-violence and diplomacy;

41. TGTE is, thus, not the association which has been declared as an unlawful association by the notification dated 14th May, 2024. The Petitioner and the TGTE could be sympathizers of the LTTE and nothing more.

42. It is observed that in the notification dated 14th May, 2024, the reference to LTTE's sympathizers is in the context of setting out the reasons why there is a need for LTTE to be declared as an unlawful association and how the said sympathizers, followers and supporters of LTTE could impinge upon India's security and integrity. It is reiterated that the law does not contemplate issuance of notice to sympathizers or supporters. It only contemplates issuance of notice to the association or its office bearers or its members under Section 4(3).



43. It is also noted that the Petitioner had earlier also filed an application for impleadment on 30th October, 2011 before the Tribunal adjudicating upon the notification dated 14th May, 2019 which was dismissed on the ground of locus. The relevant portion of the said order dated 30th October, 2011 passed by the then Tribunal is set out below:

"The applicant in para 6 of the application has admitted in clear terms, as follows:

**6. Upon taking up this responsibility, the Applicant has acted throughout as an independent person and has taken on the formation of the TGTE as an entirely independent political endeavour, one which has not subsequently been in any way connected to the LTTE."**

The notification dated 14.05.2019 issued by the Government of India has declared the LTTE as an Unlawful Association under the Unlawful Activities (Prevention) Act, 1967 for the reason that the LTTE is carrying on destructive activities prejudicial to the integrity and sovereignty of India and adopt a policy inimical to India which continues to pose a great threat to the security of Indian national.

In view of the above background, the applicant has failed to establish a case to participate in the present proceedings which particularly pertains to LTTE. **The LTTE has been declared as an Unlawful Association under the Unlawful Activities (Prevention) Act, 1967 with which the applicant/TGTE has no connection.**

Accordingly, the application being devoid of any merit, is hereby dismissed."

44. The Petitioner has placed reliance on the order dated 12th November, 2010 of the Tribunal considering the notification dated 14th May, 2010 declaring the LTTE as unlawful association, wherein the intervention of Mr. Vaiko, General Secretary of MDMK, was permitted by the Tribunal and he was allowed to present his inputs in the respective proceedings. In the said order, the Tribunal has recorded as under:

10. [...]

Mr. Vaiko has categorically denied that he is a member of the LTTE. He contends that he sympathizes with the Organization's aspirations and deprecates its ban, which impacts various innocent boys and girls. He also argues that since the stand of the Government of India is that LTTE has been completely decimated, there cannot be any participation on its behalf. Therefore, he may be allowed to participate in the inquiry and place relevant facts before the Tribunal.

I am of the opinion that the Act provides for an opportunity to respond only to the subject Association/Organisation or its Office Bearers or Members. The language of Section 4(3) of the Act is categorical. The Act specifically provides for the remedy which can be availed of by any person affected by the Notification which are before the District Judge or the Government of India.

Reliance placed on Order I Rule 10 of the CPC by the Applicant, in my view, is misplaced as the Act states under Section 9 that the procedure applicable in the Inquiry to be conducted by the Tribunal is that provided under the Code of Criminal Procedure, 1973 which does not provide for impleadment of parties who are not directly involved. Moreover, the Applicant has failed to disclose any material ground or grievance caused to him by this Inquiry that would make him proper or necessary party.

I have carefully perused the pronouncement in Jamaat-E-Islami already referred to above. The Hon'ble Supreme Court has pointedly articulated the need of the Tribunal to act in a judicial manner, since otherwise it may be perceived as a mere rubber stamp of the Government. Their Lordships have observed that in order to "satisfy the minimum requirements of a proper adjudication, it is necessary that the Tribunal should have the means to ascertain the credibility of conflicting evidence relating to the points in controversy." **Accordingly, I do not rule out the possibility of permitting a person who enjoys credibility to address arguments to present a point of view different to the Government. Even so, Mr. Vaiko has no right to be impleaded as a party.**

**Impleadment Application is, therefore, rejected.**

xxx xxx xxx

**46. The Tribunal had allowed some of sympathizers/supporters of the ideology of LTTE to present their submissions on the Notification, even though their impleadment has been rejected.** Mr. Vaiko, General Secretary, Marumalarchi Dravida Munnetra Kazhagam, Mr N.Chandrashekharan, Advocate for Mr. Pazha Nedumaran, President, Tamilar Desiya Iyakkam

and Mr. M. Radhakrishnan, Advocate for Prisoners Rights Forum where, therefore, allowed to present their views after the learned ASG had placed all relevant facts and material in support of the ban.

47. Mr. Vaiko has taken pains to state that - "Tamil Nadu is part and parcel of this great country, India", He vociferously argued that the notion of a Tamil homeland, viz. "Tamil Eelam", for which the LTTE is fighting in Sri Lanka, does not include separation of any part or territory of India. He has submitted that the LTTE has never been a threat to the national and sovereignty of India. For this, he placed reliance on the speeches delivered by Late Prabhakaran and other prominent leaders of the LTTE on "Martyrs Day". He also emphasized on the fact that the proposed map of the "Tamil Eelam" in the background of the dais from which said speeches were delivered only included Northern and Eastern provinces of Sri Lanka and no part of Indian Territory. He also argued that the Government of India is only relying on extraneous materials and suspicion theories which are not substantial enough to justify the ban on the LTTE. He also argued that threat to VVIP security cannot be a ground to impose the ban under Section 3 of the Act.

As per the above order, Mr. Vaiko was not impleaded as a party but was merely permitted to intervene and address submissions before the Tribunal.

45. The Petitioner cannot be equated with Mr. Vaiko or other persons mentioned above, who were permitted to intervene by the Tribunal. All the said persons are based out of India and are citizens of India. They are subject to jurisdiction of Indian Courts and Indian law. The Petitioner's case is distinct from the said persons, as the Petitioner is admittedly a permanent resident of United States of America and is not bound by the laws of India. The Tribunal which is holding hearings currently is a Tribunal purely constituted under Indian law i.e., the UAPA. The powers of the Tribunal include powers of contempt, punishment for false evidence and all such similar powers as exercised by Civil and Criminal Courts in the country as contemplated under Sections 5 and 9 of UAPA.

46. While there can be no doubt that the Tribunal is fully empowered to deal with application for impleadment under Order I Rule 10 of CPC, it cannot be held that impleadment or intervention has to be permitted in all cases. The Petitioner was the same person who had sought intervention earlier in 2019, as mentioned above, whose application was rejected on the ground of locus by the concerned Tribunal and the said order was not challenged by the Petitioner. The said order would be a binding precedent, considering that the Petitioner in the present case is the same. The organization in respect of which the Tribunal was then constituted is also the same. Even if a fresh look is to be taken by the present Tribunal, sufficient reasons have been given by the Tribunal in the impugned order for not entertaining the application for impleadment of the Petitioner.

47. This Court is of the view that it is not to substitute its opinion with that of the Tribunal, so long as the Tribunal's order is not perverse or arbitrary, the same does not warrant interference, especially, considering the contours of the jurisdiction exercised by this Court under Article 226 and 227 of the Constitution of India.

48. Matters which concern the security and integrity of the country are those in which judicial review ought to be exercised with utmost caution. The Petitioner claims to be the Prime Minister of a trans-national government of Tamil Eelam and the impact of allowing such a person to intervene in these proceedings under the UAPA, that too when he is admittedly not a member of the LTTE or an office bearer of the LTTE, is far reaching, as the stand of the Petitioner could have broader implications on policy issues and relations with other nations, which are not to be determined either by the Tribunal or by this Court.

49. The fact that the state of Tamil Nadu as also other sympathizers of the LTTE based out of India are already being heard by the Tribunal, by way of interventions, shows that the basic principles of fairness and natural justice are being duly followed by the Tribunal. Under these circumstances, this Court is of the opinion that the order of the Tribunal does not require to be interfered with.

50. It is also noted that the challenge to the impugned order is also at a belated stage, since the proceedings are now at the stage of final arguments. The impugned order of the Tribunal was passed on 11th September, 2024 and the present writ petition has been filed, after clearing objections, on 16th October, 2024. The order of the Tribunal dated 7th October, 2024 reads as under:

"9. The Union of India is directed to ensure that the recording of the evidence and arguments are completed on or before 28.10.2024 keeping in view the deadline of 14.11.2024.

10. List for examination of the witness of MHA on 24.10.2024.

11. List for arguments on 28.10.2024.

51. As is clear from the above, the matter is listed today i.e., on 28th October, 2024, for final hearing. Thus, even on the ground of delay, this Court is not inclined to interfere with the impugned order of the Tribunal.

52. The writ petition is accordingly dismissed. Needless to add that if the Petitioner has any other remedies in law the same are left open to be availed of. Such proceedings would not be influenced by the observations in the present order, which is confined to the prayer for impleadment made before the Tribunal.”

19. Section 4(3) of the Act provides for giving an opportunity of hearing not only to the banned association but also to any of its office bearers or members. Thus, under Section 4(3) of the Act reply or objections to a Notice issued under Section 4(2) of the Act could have been filed by LTTE as also by any of its office bearers or members. In this case, however, no objections or replies were filed either by LTTE or any of its office bearers or members.

20. By order dated 11.09.2024, the next sitting of the Tribunal was fixed for recording of evidence on 27.09.2024 and 28.09.2024 at 10.30 am at Chennai, Tamil Nadu. Government of India was directed that Public Notice be issued notifying the dates, time and venue of the sitting of the Tribunal on the aforementioned dates at Chennai calling upon all those persons interested/willing to participate in the inquiry. The said notice was directed to be published in one National daily newspaper (English) and one prominent local newspaper in vernacular language in Chennai.

21. In compliance of the directions of the Tribunal, an affidavit dated 27.09.2024 was filed by State of Tamil Nadu stating that the public notice dated 13.09.2024 issued by the Registrar of the Tribunal, notifying the dates, time and place for sitting of the Tribunal was published in English newspaper the ‘New Indian Express’ and Tamil newspaper ‘Daily Thanthi’ on 21.09.2024. The Notice was also broadcast on All India Radio, Chennai on 21.09.2024 at 6:30 pm and 7.15 pm and Prasar Bharati, Doordarshan Kendra, Chennai has telecast the news item at Primetime news bulletins on 21.09.2024 at 10.00 pm and on 22.09.2024 at 8.00 am.

22. On 27.09.2024, the evidence of Mr. G. Shashank Sai (PW-1) and Mr. R. Sureshkannan (PW-2) was recorded. Thereafter, on 28.09.2024, the evidence of Mr. G. Kumaran was recorded in two separate FIRs. Mr. G. Kumaran had filed two separate affidavits along with annexures pertaining to two separate FIRs. For the ease of procedural convenience, Mr. G. Kumaran’s evidence was recorded twice on the same day, with respect to the separate affidavits. Hence, his name appears twice in the record as PW-3 and PW-4. At the hearing, the Registrar of the Tribunal called out in a loud voice if anyone was appearing on behalf of LTTE and was present for cross examining. However, none stepped forward for cross examining and none recorded appearance on behalf of LTTE. The counsel for Mr. Vaiko and Mr. Visuvanathan Rudrakumaran were present during the hearings.

23. Thereafter, by order dated 07.10.2024, a hearing was fixed at Madurai for recording the evidence of remaining witness viz. Mr. Vinodan K. on 19.10.2024 at 10.30 a.m. The Government of India was directed to give due publicity of the hearing at Madurai. In compliance of the directions of the Tribunal, an affidavit dated 17.10.2024 was filed by the State of Tamil Nadu stating that the public notice dated 8.10.2024 issued by the Registrar of the Tribunal, notifying the place, time and date of sitting of the Tribunal at Madurai was published in English Newspaper ‘Times of India’ (Chennai Edition) and Tamil Newspaper ‘Daily Thanthi’ (Madurai Edition) on 11.10.2024. It was stated that Prasar Bharati, Doordarshan Kendra, Chennai has telecast the news on 16.10.2024 in Tamil News Bulletin (1.00 pm, 5.00 pm, 7.00 pm and 10.00 pm) as well as on its social media handles i.e Twitter, Facebook and YouTube. It was stated that All India Radio, Chennai had broadcast the public notice dated 8.10.2024 in news bulletins at 7.15 pm on 14.10.2024 and at 6.30 pm on 15.10.2024.

24. At the hearing held at Madurai on 19.10.2024, the evidence of Mr. Vinodan K. (PW-5) was recorded and thereafter, the Registrar of the Tribunal called out in a loud voice if anyone was appearing on behalf of LTTE and was present for cross examining. However, none stepped forward for cross examining and none recorded appearance on behalf of LTTE. The counsel for Mr. Vaiko was present during the hearing.

25. The matter was thereafter posted for recording of evidence of one witness on behalf of MHA on 24.10.2024 at Delhi High Court, New Delhi and for final arguments on 28.10.2024 in the Delhi High Court, New Delhi.

26. Evidence of Mr. Abhijit Sinha, Joint Secretary, MHA (PW-6) was recorded on 24.10.2024. The arguments on behalf of Union of India were heard on 28.10.2024 and the matter was adjourned to 29.10.2024 for further arguments. The arguments on behalf of Mr. Vaiko and rejoinder submissions of Union of India were heard and concluded on 29.10.2024.

### **EVIDENCE OF THE WITNESSES RECORDED**

27. The following witnesses have been examined by the Government of India and the State of Tamil Nadu to satisfy the Tribunal that there is sufficient cause for declaring LTTE as an unlawful association: -

- i) PW-1 Shri G.Shashank Sai, SP, Q Branch, CID, Mylapore, Chennai, Tamil Nadu.
- ii) PW-2 Mr. Sureshkannan, Deputy Superintendent of Police, ‘Q’ Branch, CID, Cuddalore Range, In-charge Kanchipuram Range, Tamil Nadu.

- iii) PW-3 and PW-4 Mr. G.Kumaran, Deputy Superintendent of Police, NIA, Chennai / New Delhi
- iv) PW-5 Mr. Vinodan K., DSP, NIA Kochi
- v) PW-6 Mr. Abhijit Sinha, Joint Secretary, MHA

28. It may be noted that all the witnesses, who had tendered their evidence by way of affidavit(s) of evidence, were examined on oath. The respective witnesses, during their deposition, proved their signatures on their affidavits at points indicated therein, while tendering them in evidence along with documents marked therein.

29. There was no representation made, in any form whatsoever by LTTE or any of its office bearers or members, to cross-examine the aforementioned witnesses produced before this Tribunal both by the Union of India and the State of Tamil Nadu. The evidence in the matter was closed by the State of Tamil Nadu on 28.09.2024 and by Union of India on 24.10.2024.

30. The Counsel for Mr. Vaiko sought inspection of the record of the Tribunal and was granted leave. The inspection was done on 25.10.2024. The true copies of the depositions of the witnesses i.e. PW-1 to PW-6 were also provided to him.

31. At the hearing held on 28.10.2024, on behalf of the Union of India arguments were advanced by Mr. Chetan Sharma, learned ASG, assisted by Mr. Anurag Ahluwalia, Mr. Ripu Daman Bhardawaj and Mr. Jay Prakash Singh, CGSCs. Learned ASG relied upon the contents of Notification dated 14.05.2024, the evidence and material filed to support the decision taken to declare LTTE as an unlawful association. Written submissions have also been filed on behalf of Union of India.

32. The Tribunal has also heard learned counsel appearing for Mr. Vaiko and perused the written submissions filed by him.

33. No written submissions on behalf of State of Tamil Nadu have been filed.

34. Before dealing with the submissions, it would be apposite to briefly advert to the evidence produced before the Tribunal, in the form of testimonies of witnesses examined by the State of Tamil Nadu and the Union of India.

35. PW-1 Mr. G.Shashank Sai, Superintendent of Police, 'Q' Branch CID, Mylapore, Chennai-4, Tamil Nadu and the Nodal Officer of the State of Tamil Nadu with respect of LTTE related matters was examined-in-chief on oath on 27.09.2024 at Chennai. PW-1 had tendered his affidavit dated 07.08.2024 along with all its annexures by way of evidence in support of the Notification dated 14.05.2024 issued by the Government of India, thereby declaring LTTE as an 'Unlawful Association' under the Act for a period of five (05) years from 14.05.2024; his affidavit has been exhibited as **Ex.PW-1/A**.

35.1 PW-1 stated that LTTE, a foreign based terrorist organization, though claimed to have been decimated in Sri Lanka, continues its unlawful activities by using its remnant cadres as well as local smugglers and pro-LTTE operatives for procuring explosives, detonators, etc. and thereafter smuggling them through boats across the sea, from the shores of Tamil Nadu to Sri Lanka. He stated that LTTE's objective for a separate homeland (Tamil Eelam) for all Tamils threatens the sovereignty and territorial integrity of India and amounts to cession and secession of a part of the territory of India from the Union and thus falls within the ambit of unlawful activities. He stated that LTTE has got supporting organization(s), sympathizer(s) and agent(s) in India and overt activities of pro-LTTE organizations would prove that the LTTE is an association based in Sri Lanka but having its sympathizers and agents in the territory of India.

35.2 He stated the LTTE was formed in 1974 and took its present name in 1976 with Velupillai Prabhakaran as Military Commander. He stated that the People's Front of Liberation Tigers (PFLT), a political front of LTTE was formed on 05.05.1976 and gave to itself a Constitution; copy of which has been filed and exhibited as **Ex. PW-1/15**. He stated that the Tamil National Retrieval Troop (TNRT), an underground organization, was formed at the instance of LTTE in the late 80s' in Tamil Nadu with the objective to fight for an independent homeland for Tamils. He stated that the TNRT has close ties with LTTE and was banned under Criminal Law Amendment Act [Central Act XIV of 1908] dated 09.11.2001, which has been exhibited as **Ex. PW-1/16**. He stated that TNRT has been declared as a terrorist organization under Section 35 of the Act, and the same finds place in Schedule-I. He stated that the Tamil Nadu-Communist Party-Marxist Leninist (TN-CPML) was formed by one Tamilarasan in 1984-85 and the Tamil Nadu Liberation Army (TNLA), the military wing of TN-CPML came into existence at the same time with the objective of secession of Tamil Nadu from Indian Union for betterment of Tamils by means of armed struggle. He stated that this organization has close ties with LTTE and drew inspiration from LTTE. He stated that the TNLA as well was banned under Criminal Law Amendment Act, 1908 [Central Act XIV of 1908] vide Gazette Publication dated 09.11.2001, which is exhibited as **Ex. PW-1/17**. He stated that another underground organization and a front organization of Tamil Nadu Liberation Front (TNLF) has exhibited in an article over the internet, a map of Greater Tamil Nadu, encompassing Eelam (Sri Lanka), Tamil Nadu, Kerala, Lakshadweep and Maldives, and the said map is exhibited as **Ex. PW-1/18**.

35.3 He further stated that 'Tamilar Pasarai', another organization formed at the instance of LTTE, propagates the intent to liberate Tamil Nadu from the Union of India through armed struggle by getting arms and ammunition, bombs and communication sets, from LTTE. He stated that Tamilar Pasarai's leader Elango<sup>1</sup> and other members of the organization had been trained in Jaffna by LTTE. He stated that in order to achieve their objective, they planted a time bomb on 22.09.1990 in the Secretariat Building "Namakkal Kavingar Maligai", Fort St. George, Chennai where a meeting was scheduled to be held and presided over by the then Prime Minister of India. He stated that the accused also wrote slogans in paper hailing 'Tamilar Pasarai', LTTE, against National Integration etc. He stated that according to Tamil Paasarai, the area like Bangalore, Tirupathi, Devikulam, Peermedu, Kannagikottam etc. which were separated at the time of formation of States according to linguistic majority, should be retrieved and united to Tamil Nadu. He relied upon a Note on 'Tamilar Pasarai', which has been exhibited as **Ex. PW-1/19**.

35.4 He stated that Tamil Desiya Iyakkam (TDI) which has the objective of supporting the cause of LTTE and to attain self-determination for all States including Tamil Nadu, was declared as "Unlawful Association" under the Criminal Law Amendment Act, 1908 vide Government Notification No. SS.I/457-2/2002 dated 13.08.2002 and the same is still in force, which has been exhibited as **Ex.PW-1/20**.

35.5 He stated that the LTTE even after its military defeat in May 2009 in Sri Lanka, has not abandoned the concept of 'Eelam' and has been clandestinely working towards the 'Eelam' cause by undertaking fund raising and propaganda activities and the remnant LTTE leaders or cadres have also initiated efforts to regroup the scattered activists and resurrect the outfit locally and internationally.

35.6 He stated that the separatist Tamil Chauvinist groups and pro-LTTE groups continue to foster a separatist tendency amongst the masses and enhance the support base for LTTE in India and particularly in Tamil Nadu. He stated this will ultimately have a strong disintegrating influence over the sovereignty and territorial integrity of India.

35.7 PW-1 stated that four (04) cases were registered against ex- LTTE cadres and pro-LTTE elements since the last notification No. S.O. 1730 (E), dated 14.05.2019, which indicate that LTTE and its remnant cadres, followers and supporters are involved in various criminal activities in India, including, smuggling of illegal drugs, illegal arms from India to Sri Lanka for furtherance of their objective to revive LTTE.

35.8 PW-1 gave the details of the four (04) cases in his affidavit as under: -

(a) **Kanchipuram 'Q' Branch CID Cr. No. 1/2020 u/s 420, 465, 468, 471 and 14 A(b) of Foreigners' Act, 1946**

35.9 On 12.10.2020, a case in Kanchipuram 'Q' Branch CID Cr. No. 1/2020 u/s 420, 465, 468, 471 of the Indian Penal Code, 1860 (IPC) and 14A(b) of Foreigners Act, 1946 was registered against a Sri Lankan National-Alahaperumuge Sunil Gamini Fonseka<sup>2</sup> (aged 52 years) S/o Reginos Fonseka, for illegally staying in India. Enquiry revealed that he is a drug lord, who had supported LTTE and was involved in several cases including murder cases in Sri Lanka. To evade from the arrest of the Sri Lankan Police, he obtained fake Sri Lankan passport in the name of Rajamethura Gadara Priyantha Ranasinge S/o Reginos Fonseka and came to India. He had fraudulently obtained a driving licence and Voter ID in the name of 'Neelakandan'. He was also involved in a case in Chennai under Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) and convicted with the sentence for 10 years rigorous imprisonment, although the sentence was commuted, and he was released in February, 2012 by the High Court of Madras.

35.10 PW-1 further stated that during investigation of the aforesaid case, 16 persons were arrayed as accused including 7 Sri Lankan nationals, 4 Indian nationals and 4 ex-LTTE cadres and all were sent to judicial custody. The details of four (4) ex-LTTE cadres, who entered India illegally are as below: -

- i) Stanley Kennady Fernando<sup>3</sup> (Age 34 years) S/o Stanly; he was a Platoon Commander in the LTTE.
- ii) Satkunam<sup>4</sup> (Age 48 years) S/o Sachithanantham; he was in the intelligence wing of LTTE.
- iii) Sutheswaran<sup>5</sup> (Age 48 years) S/o Lukash; he was a leader of alpha wing in Mathaiyaa team of LTTE.
- iv) Thatheeshwaran<sup>6</sup> (Age 45 years) S/o Rasendhirampillai; he was an active member in LTTE movement.

<sup>1</sup> Elango @ Kumaran @ Ravi @ Santhosh.

<sup>2</sup> Sunil Gamini Fonseka @ Kotta Gamini

<sup>3</sup> Stanley Kennady Fernando @ Ezhilon @ Bumma @ Kisan

<sup>4</sup> Satkunam @ Sabeasan

<sup>5</sup> Sutheswaran @ Prem @ Kannan

<sup>6</sup> Thatheeshwaran @ Nagulan @ Tamilvanan

35.11 It was stated that the accused in Kanchipuram ‘Q’ Br. CID Cr.No.1/2020 viz. Suresh Raj<sup>7</sup>, Soundar<sup>8</sup> and Sabesan were arrested by National Investigation Agency (NIA) and it was revealed that they were involved in smuggling of drugs and used the higher crime racket of drug smuggling as a guise to smuggle arms into Sri Lanka and had planned to use the crime proceeds for the revival of LTTE organization in Sri Lanka. It was stated that final report and charge sheet have already been filed in this case and the case is under trial.

**(b) Salem ‘Q’ Branch CID Cr. No. 1/2022 u/s 25(1)(a), 25 (1AA), 25(1B)(a) of Arms Act 1959 & 4(a) of Explosives Substances Act, 1908**

35.12 PW-1 affirmed that in another case, accused Naveen<sup>9</sup> and Sanjay Prakash riding a motorcycle from Salem to Omalur were caught carrying a travel bag containing weapons, communication equipment, explosives including petrol bomb etc. The accused were arrested and booked in case u/s 25(1)(a), 25 (1AA), 25(1B) (a) of Arms Act, 1959 (Act of 1959) & 4(a) of the Act of 1908 and were sent to Judicial Custody. It was stated that during interrogation it was discovered that they were influenced by the ideology of LTTE Leader V. Prabhakaran and they were in close contact with one Seelan Murugun (Black Tiger of the LTTE). It was stated that the accused confessed that they wanted to establish justice “through the gun” in the same way as was followed by the LTTE and intended to blast the TASMACH shops and mining quarries in Tamil Nadu akin to the LTTE movement in Sri Lanka. It was stated that this case was thereafter transferred to NIA as per Memorandum C.3 No.5075/X/2022/M dated 02.08.2022, which is exhibited as **Ex. PW-1/21**.

**(c) Chennai City ‘Q’ Branch CID Cr. No. 1/2021 u/s 12(1)(b), 12(1-A)(a) of Passport Act 1967 r/w 420, 465, 468, 471 IPC r/w 14(a) of Foreigners Amendment Act 2004.**

35.13 PW-1 further deposed that in another case one Letchumanan Mary Franciska was found in possession of various documents such as an Indian Passport bearing No. U8011090, copy of Indian Voter ID Card bearing No. RAZ2456734, her Sri-Lankan Passport bearing No. N8308158 (in original) and original boarding pass of Go Air Flight. The documents of Indian origin were fraudulently obtained by her as she was a Sri Lankan national and could not have possessed the said documents. PW-1 stated that she was arrested and remanded to Judicial Custody on 02.10.2021. It was stated that based on her confession, several accused i.e., T. Kenniston Fernando, K. Baskaran, C. Johnson Samuel, L. Chellamuthu, G. Dharmendiran, E. Mohan and G.P.N. Bharathy were arrested and remanded to judicial custody on various dates.

35.14 It was stated that during investigation, it was ascertained that the accused entered into a criminal conspiracy with Balaiah and Umakanthan<sup>10</sup>, both ex-LTTE cadres to siphon Rs.42,28,69,172/- from inoperative bank accounts of Hamida-A-Laljee, Arshia-A-Laljee and Iskander-A-Laljee in a fraudulent and dishonest manner. The funds were intended to be siphoned by the accused for the banned association-LTTE in furtherance of reviving and re-grouping of LTTE.

35.15 It was stated that so far, eight (8) accused had been arrested in this case and on the instructions of MHA, NIA re-registered the case at NIA Police Station, New Delhi vide RC-02/2022/NIA/DLI on 18.01.2022 u/s 120(B), 420, 465, 468, 471 r/w 109 IPC, Sections 18, 39 & 40 of the Act, 1967, section 12(1)(b), 12(1A)(a) of the Passports Act, 1967 and Section 14(a) of the Foreigners Amendment Act, 2004; letter of MHA dated 05.07.2022 directing NIA to take up investigation is exhibited as **Ex. PW-1/22**.

**(d) Searches conducted by NIA in relevancy of RC No.29/2022/NIA/DLI**

35.16 PW-1 stated that a case in Kerala State, Vizhinjam PS i.e. Cr.No.498/2021 u/s 27 of the Act of 1959 and Section 34 IPC was registered on 05.04.2021 against six (6) Sri Lankan nationals, who were intercepted with consignments of 300 kgs heroin, 5 AK-47 rifles with 1000 9mm rounds by Coast Guard during patrolling off Vizhinjam Coast on 18.03.2021.

35.17 It was stated that this case was transferred to NIA and re-registered as RC-01/2021/NIA/KOC u/s 7 r/w 25 (1AA) of the Act of 1959 on 01.05.2021. It was stated that during investigation, the NIA officials came across the involvement of two (2) accused i.e., Suresh Raj and Soundar, who were already arrested in Kanchipuram case, was known.

35.18 It was stated that during interrogation, accused Soundar had voluntarily confessed that his uncle Balan Jayakanthan, an ex-LTTE cadre, instructed him to meet Robert Payas (an accused in Rajiv Gandhi assassination case) for monetary assistance for his education; and Robert Payas, in turn, instructed him to meet Sabesan, another ex-LTTE cadre; and through Sabesan, he developed association with Suresh Raj (accused in Kanchipuram case) and they

<sup>7</sup> Suresh @ Suresh Raj. A

<sup>8</sup> Soundar@Saoundararajan

<sup>9</sup> Naveen @ Naveen Chakravarthi

<sup>10</sup> Umakanthan @ Idhayan @ Charles @ Iniyen.

both indulged in subversive activities. It was stated that accused-Suresh Raj was also in possession of satellite phone. It was stated that subsequently, NIA arrested both the accused on 02.08.2021 and lodged them at Kerala prison; several raids were conducted by NIA and various incriminating documents including books relating to LTTE, seven digital devices including phones, SIM cards and a tablet were seized.

### **Conviction of the accused in a prior case**

35.19 PW-1 stated that a case in Ramanathapuram 'Q' Branch CID Cr. No. 1/2015 was registered on 20.07.2015 against six (6) accused for having conspired together to revive LTTE and the said case ended in conviction against five (5) accused and the case of one accused i.e., Sree<sup>11</sup>, who was absconding, was split. It was stated that later, accused-Sree was produced before the PD&SC, Ramanathapuram on 16.12.2021, which case has also ended up in his conviction, which is exhibited as **Ex. PW-1/23**.

#### **“Questions put by the Hon’ble Tribunal**

**Question No. 1:** What is the Nationality of the accused Mr. Suresh Raj, Mr. Soundar and Mr. Sabesan?

**Answer:** Mr. Suresh Raj is a Sri Lankan Tamil and Mr. Soundar is an Indian National and Mr. Sabesan is an ex-LTTE cadre.

**Question No. 2:** What is the current status of the Trial in CID Cr. No. 01/2022?

**Answer:** The case has been transferred to NIA and to my knowledge is pending trial.

**Question No. 3:** What is the current status of trial in CID Cr. No. 01/2020?

**Answer:** The case is pending trial and is next listed on 17.10.2024. The Investigating Officer of the said case is present and will be deposing next before this Tribunal as PW-2.

**Question No. 4:** How did the names of the accused Mr. Suresh Raj and Mr. Soundararajan find mention in case pertaining to Cr. No. 498/2021 (re-registered as RC-01/2021/NIA/KOC) and what is the connection of this case with CID Cr. No. 01/2020 registered at Kanchipuram?

**Answer:** Mr. Suresh Raj and Mr. Soundar, the accused were arrested in Kanchipuram, case Cr. No. 01/2020 and it was during investigation under the said case that we learnt that they were also connected with Cr. No. 498/2021 registered at Vizhinjam, Kerala. (re-registered as RC-01/2021/NIA/KOC)

**Question No. 5:** What is the date of the conviction of the accused Sree in Cr. No. 01/2015?

**Answer:** Accused Sree has been convicted on 18.07.2024.”

35.20 PW-1 tendered documents which have been marked as Ex. PW-1/1 to PW-1/23. There was no cross examination of PW-1 on behalf of LTTE as none appeared on behalf of the association.

32.1 Mr. R. Sureshkannan, Deputy Superintendent of Police, 'Q' Branch CID, Cuddalore Range, In-Charge Kanchipuram Range, Tamil Nadu and the monitoring officer for Kanchipuram 'Q' Branch CID Cr. No. 01/2020 was examined-in-chief on oath as PW-2 on 27.09.2024 at Chennai. PW-2 has filed an affidavit dated 24.09.2024 along with the annexures by way of evidence before this Tribunal, in support of the Notification dated 14.05.2024, which has been exhibited as **Ex. PW-2/A**. PW-2 identified his signatures on all pages of the affidavit, which were marked as Mark **A1-A6**.

36. PW-2 stated that upon receiving a reliable input, an enquiry was conducted on one Sri Lankan national - Neelakandan, who was staying at Cosmos City, Puthupakkam, Chennai, wherein it was found that Neelakandan was illegally staying in India without any valid travel documents in a flat owned by one Gopi of Virugambakkam, Chennai. The said Sri Lankan national was using driving license bearing No. TN-10-20020007003 with his photo in name of one Udayachandran. He stated that a case was registered under sections 420, 465, 468, 471, 353, 506 (ii), 212, 34 of IPC, 1860 r/w Section 14A(b) of Foreigners Act, 1946 and Sec 12(1)(c), 12(1-A), 12(1)(a), 12(2) of the Passport Act, 1967 (Act of 1967) r/w 109 IPC, 120 (b) IPC in Kanchipuram QBCID Cr. No. 01/2020 case. The copy of FIR and its English translation have been exhibited as **Ex. PW-2/1 and Ex. PW-2/1A**. It was stated that Tr. N. Balaji, Sub-Inspector of Police, 'Q' Branch CID, Kanchipuram, District conducted the enquiry and gave a special report dated 12.10.2020, which led to the registration of the FIR. The true copy of the special report and its English translation are exhibited as **Ex. PW-2/2 and Ex. PW-2/2A**.

36.1 PW-2 further deposed that on 13.10.2020 the accused Neelakandan was arrested and remanded. He stated that during the course of investigation in Cr. No. 01/2020, 17 accused were arrayed including 12 Sri Lankan nationals of which 4 were ex- LTTE cadres and 5 Indian Nationals for providing assistance and harboring the Sri Lankan nationals, who are accused in illegal activities. All of these accused were sent to judicial custody. He stated that ex-

<sup>11</sup> Sree @ Ranjan @ Rajan @ Pugazh @ Pugazhavan

LTTE cadres involved in this case are: (i) Stanly Kennady Fernando (Age 34); (ii) S.Satkunam (Age 48); (iii) Sutheswaran (Age 48) and (iv) Thatheeshwaran (Age 45).

36.2 PW-2 further stated that on the confession statement of accused Neelakandan, the investigation was geared up and Stanly Kennady Fernando was arrested on 31.01.2021 for his illegal entry and stay in India and Stanly Kennady Fernando voluntarily confessed that he was a LTTE cadre. The true copy of confession statement dated 31.01.2021 and custody confession statement dated 11.02.2021 of Stanly Kennady Fernando are exhibited as **Ex. PW-2/3 and Ex. PW-2/4** and their English translations are exhibited as **Ex. PW-2/3A and Ex. PW-2/4A**. He stated that Stanly Kennady Fernando changed his name as “Kisan” and had fraudulently obtained driving license, aadhar card and PAN card in that name. Seizure Mahazar dated 31.01.2021 of accused Stanly Kennady Fernando and its English translation are exhibited as **Ex. PW-2/5 and Ex. PW-2/5A**.

36.3 PW-2 further stated that investigation revealed that S.Satkunam was arrested on 25.11.2021 and during custodial interrogation he had voluntarily confessed that he was a LTTE cadre. Custody confession statement of S.Satkunam and its English translation are exhibited as **Ex. PW-2/6 and Ex. PW-2/6A**. He stated that investigation further revealed that Sutheswaran and Thatheeshwaran had assisted S.Satkunam in his illegal activities.

36.4 PW-2 stated that on 20.02.2022, Sutheswaran was summoned and during enquiry his involvement in the case was ascertained. Hence, he was arrested and sent to judicial custody. Arrest confession statement dated 20.02.2022 and custody confession statement dated 02.03.2022 of Sutheswaran are exhibited as **Ex. PW-2/7 and Ex. PW-2/8** and their English translation are exhibited as **Ex. PW-2/7A and Ex. PW-2/8A**. He stated that at the time of arrest of Sutheswaran, an Indian driving license, 5 cell phones, aprilla scooter, pen drive, Indian voter ID and other material evidences were seized. Seizure Mahazar dated 20.02.2022 and 02.03.2022 of accused Sutheswaran are exhibited as **Ex. PW-2/9 and Ex. PW-2/10** and their English translations are exhibited as **Ex. PW-2/9A and Ex. PW-2/10A**.

36.5 PW-2 deposed that on 27.02.2022, Thatheeshwaran was summoned and during enquiry, his involvement in the case was ascertained, thus, he was arrested and sent to judicial custody. Arrest confession statement dated 27.02.2022 and custody confession statement dated 10.03.2022 of accused Thatheeshwaran are exhibited as **Ex. PW-2/12 and Ex. PW-2/11** and their English translations are exhibited as **Ex. PW-2/12A and Ex. PW-2/11A** respectively. He stated that at the time of arrest and custodial interrogation, Thatheeshwaran, had revealed that he was a LTTE cadre and an apple iPhone, nokia button phone, Indian driving license, Indian aadhar card, bank debit cards, cars, scooters and other material evidences were seized from him. Seizure Mahazars dated 27.02.2022 and dated 10.03.2022 of accused Thatheeshwaran are exhibited as **Ex. PW-2/13 and Ex. PW-2/14** and their English translation are exhibited as **Ex. PW-2/13A and Ex. PW-2/14A**.

36.6 PW-2 stated that all the above four ex-LTTE cadres involved in Cr. No. 01/2020 had illegally entered and stayed in India without any valid travel documents and in order to screen their nationality and background, they had fraudulently obtained Indian ID proof documents by suppressing their nationality. He stated that by using these fraudulent ID proof documents they had opened Bank accounts in Tamil Nadu and indulged in suspicious activities and thereby enjoyed their life as a citizen of India, which would be a severe threat to the internal security of the nation and may affect the public tranquility of the state and society.

36.7 PW-2 further deposed that Stanly Kennady Fernando and S.Satkunam were arrested in National Investigation Agency (NIA) cases viz. (i) NIA KOC RC No. 01/2021 and (ii) NIA DLI RC No. 29/2022. He stated that after NIA interrogation, it came to light that these former LTTE elements were involved in drug smuggling, used the drug smuggling as a guise to smuggle arms into Sri Lanka and had planned to use the higher crime proceeds for the revival of LTTE organization in Sri Lanka.

36.8 After the deposition of PW-2, some queries of the Tribunal were put to him, which are as under:-

**“Question:** In the Cr. No. 01/2020, the nature of offences for which the accused have been arrayed are with respect to forging of documents for creating an identity fraud?

**Answer:** Yes, the subject matter of this FIR pertains to identity fraud by the Sri Lankan nationals with the aid and abetment of the Indian Nationals.

**Question:** Are you part of the investigating team in the cases (i) NIA KOC RC No. 01/2021 and (ii) NIA DLI RC No. 29/2022?

**Answer:** No.

**Question:** Since (i) NIA KOC RC No. 01/2021 and (ii) NIA DLI RC No. 29/2022 are mentioned in your affidavit and these cases relate to NIA, how did you come to know about these cases?

**Answer:** S.Satkunam was arrested by NIA in their case registered under NIA KOC RC No. 01/2021. We had effected arrest of S. Satkunam and summoned him through P.T. warrant and thereafter carried out interrogation. This is how we learnt about the registration of cases by NIA against the said accused and the nature of the offences in the said cases.”



36.9 There was no cross examination of PW-2 on behalf of LTTE as none appeared on behalf of the association.

37. PW-1 in his testimony as well deposed about CID Cr.No.01/2020. PW-1 in his testimony had stated that 16 accused were arrayed in this case. Whereas PW-2 in his testimony while deposing qua the same case stated that 17 accused had been arrayed. Therefore, PW-1 was recalled for clarification. In the clarification, PW-1 stated that PW-2's statement is correct and there are 17 accused, which is a matter of record in case proceedings pertaining to CID Cr.No.01/2020. He stated that an accused Lingam was arrested on 28.11.2023 through a P.T. warrant.

38. Mr. G. Kumaran, Deputy Superintendent of Police is the Investigating Officer (IO) of NIA in RC-02/2022/NIA/DLI. He is also the Investigating Officer (IO) of NIA in RC-33/2022/NIA/DLI. The said witness filed separate evidence affidavits with documents, with respect to the facts of each of the cases. Thus, for the sake of convenience, Mr. G. Kumaran's evidence with respect to both the cases and their documents was recorded separately as PW-3 and PW-4 respectively.

#### **RC-02/2022/NIA/DLI**

38.1 PW-3 stated that he had filed an affidavit dated 28.08.2024 by way of evidence in support of the Notification dated 14.05.2024 consisting of 17 pages before this Tribunal, which is exhibited as **Ex.PW-3/A**. He identified his signatures placed on each page of the affidavit as **Mark A1 to A18**.

38.2 PW-3 stated that NIA had investigated a case in which connection of main accused i.e., Letchumanan Mary Franciska and LTTE had surfaced. He stated that on 01.10.2021, Tr. K.G. Sadasivan, AFRRO/D, Bureau of Immigration, Chennai Airport received credible information regarding a Sri Lankan national i.e., Letchumanan Mary Franciska, who was supposed to travel via Chennai to Bengaluru and then to Mumbai by Go Air Flight No. G8-304 on an Indian Passport No. U0811090, obtained by fraudulent means by submitting forged documents such as aadhar card. Based on this input, Letchumanan Mary Franciska was intercepted at Chennai Domestic Terminal and she acknowledged that she had obtained Indian Passport No. U0811090 (valid till 03.12.2030) issued by Regional Passport Office (RPO), Chennai. He stated that Letchumanan Mary Franciska was handed over to Inspector Shri N. Velavan of 'Q' Branch CID, Chennai for taking further legal action.

38.3 He stated that during investigation, it unfolded that the accused-Letchumanan Mary Franciska had come to India on 16.12.2019 using her Sri Lankan Passport bearing No. N8308158 along with Indian Electronic Tourist Visa 9028AD7BJ (valid only till 02.12.2020). He stated that since the Tourist Visa had expired, she intended to obtain Indian Passport by fraudulent means and stayed on rent at D.No.32, Block 166, 2<sup>nd</sup> Shakthi Colony, 4<sup>th</sup> Avenue, Anna Nagar, Chennai. He stated that by using the said rent agreement with the house owner-Shri Jayakumar, she obtained other Indian identity documents viz. Aadhar Card, Pan Card, Voter ID Card and also opened bank accounts in Indian Overseas Bank (IOB), Kilpauk Branch, Chennai and in various other banks. He stated that with these documents, she applied and obtained an Indian Passport dishonestly and fraudulently.

38.4 He stated that the accused-Letchumanan Mary Franciska stayed back in India with the intention to siphon off huge amounts from a bank account in IOB, Fort Branch, Mumbai held in the name of Hamida-A-Lalljee for using the funds to revive LTTE in India and Sri Lanka. The true copy of Sri Lankan passport of Letchumanan Mary Franciska has been exhibited as **Ex PW-3/1**.

38.5 He stated that initially, the case was registered by 'Q' Branch CID as Cr. No. 1 of 2021 for alleged offences under Section 420, 465, 468 & 471 of Indian Penal Code, 1860 (IPC), Sections 12(1)(b), 12(1A)(a) of the Act of 1967, Sections 14(a) of Foreigners Act, 1946 (as Amended up to date); the copy of FIR No. 01/2021 dated 01.10.2021, 'Q' Branch CID, Chennai is exhibited as **Ex. PW-3/2**. He stated that however, considering the gravity of the offence, MHA, entrusted this investigation to NIA. He stated that NIA re-registered the case as RC-02/2022/NIA/DLI under Sections 120(B), 420, 465, 468, 471 read with Section 109 IPC, Sections 18, 39 & 40 of the Act, Sections 12(1)(b) and 12(1A)(a) of the Act of 1967, Section 14(a) of the Foreigners (Amendment) Act of 2004 on 18.01.2022 and the FIR was submitted before the Special Court on 19.01.2022; copy of FIR No. RC-02/2022/NIA/DLI is exhibited as **Ex. PW-3/3**. The copy of statement of Mr. K.G. Sadasivam, Inspector is exhibited as **Ex. PW-3/4**.

38.6 He stated that the investigation has disclosed that Letchumanan Mary Franciska was instructed by Umakanthan, who is from LTTE Cadre to siphon off deposits in various bank accounts and to revive LTTE. He stated that Letchumanan Mary Franciska along with Keniston Fernando and K. Baskaran had entered into a criminal conspiracy for committing forgery and cheating to revive the LTTE with the connivance of Johnson Samuvel, G. Dharmendran and E. Mohan. Copies of confession statements of Letchumanan Mary Franciska, Keniston Fernando and K. Baskaran have been exhibited as **Ex. PW-3/5, Ex. PW-3/6 & Ex. PW-3/7** and their English translations have been exhibited as **Ex. PW-3/5A, Ex. PW-3/6A & Ex. PW-3/7A** respectively.

38.7 He stated that investigation further disclosed that Letchumanan Mary Franciska created a Power of Attorney nominating herself to operate the account of Hamida-A-Lalljee in a fraudulent manner, on the instructions of Umakanthan; with assistance of Keniston Fernando to siphon off a huge amount of Rs.42.28 crores.

38.8 He stated that after completion of investigation, the final report was filed against Keniston Fernando, K. Baskaran, Johnson Samuel, G. Dharmendiran and E. Mohan. The copy of the charge sheet No.07/2022 dated 29.03.2022 has been exhibited as **Ex. PW-3/8**, which stated that the accused have been booked under 120(B), 465, 467, 468, 471, 472 and 474 IPC, Section 10, 13, 38 and 39 of the Act, Sections 12(1)(b) and 12(1A)(a) of the Act of 1967 and Sections 14(a) of the Act of 2004.

38.9 He further deposed that during investigation, it was revealed that the main conspirator of the case was Umakanthan, a Sri Lankan national who is presently residing at 45, Parkvej, Swedenberg, Denmark. He stated that Umakanthan had joined the LTTE in the year 1992 and took arms training in Jaffna base for 3 months; and after his training, Umakanthan had been posted in the Political Wing of LTTE in Jaffna and was a part of Pooneryn Operation in 1993 (battle between LTTE and Sri Lankan Military) and Elephant Pass Operation. He stated that Umakanthan sustained bullet injury by Sri Lankan Army in 1997 and came to Chennai and took treatment at Malar Hospital and was lodged in Chengalpattu Special Camp in 1999. He further stated that State Government of Tamil Nadu in its reply in the Writ Petition No. 256 of 1999 filed before the High Court of Madras had stated that Umakanthan's presence outside the camp would be detrimental to the security of the nation. The copy of letter dated 18.02.2022 of Superintendent of Police, 'Q' Branch, Chennai regarding documents/MOs, details of LTTE cadre Umakanthan has been exhibited as **Ex. PW-3/9**.

38.10 He stated that there are various small groups that are planning to join together and revive the LTTE ideology of forming a separate state in Sri Lanka; such groups have called themselves as Iyakkam (movement) and have mushroomed to revive LTTE in India, Sri Lanka to gain support from Sri Lankan Tamils living abroad.

38.11 He stated that during the course of investigation, the scrutiny report of cloud data extracted from social media and email accounts used by Letchumanan Mary Franciska has been placed on record and is exhibited as **Ex. PW-3/10**.

38.12 He stated that Umakanthan had deposited US\$ 1,69,902 (Rs.1,19,92,000/-) in the Bank of America account of one Vinoth and the same was thereafter transferred to the account of K. Baskharan; copy of bank statements has been exhibited as **Ex. PW-3/11**.

38.13 He stated that several witnesses were examined during investigation and their statements were recorded under Section 161 and 164 of the Criminal Procedure Code, 1908 (Cr.P.C.) revealing the role of Letchumanan Mary Franciska in unlawful activities. He stated that the copies of statements of prosecution witnesses viz. K.G. Sadasivam, AFRRO, Shri Rishi S. Nair, Immigration Officer, Smt. Vijaya, Shri D. Chandrasekaran, Shri R. Pandiarajan, Shri Vinoth G, Shri Gunaseelan and Shri Karikalan are exhibited as **Ex. PW-3/12 to PW-3/19**. He stated that the copy of statements of the protected witnesses (code named as PW-2/20 and PW-2/42), have been filed in a sealed cover. The sealed cover was opened, the contents examined and the witness statements in the sealed cover have been marked as **Ex. PW-3/20-A** and **Ex. PW-3/20-B**. [The witness statements were again placed in a sealed cover and the sealed cover has been marked as **Ex. PW-3/20**].

38.14 He stated that the charges against accused Letchumanan Mary Franciska and others have been framed vide Court order dated 15.05.2023 for the offences under Sections 120(B), 467 r/w 120B, 465 r/w 120B, 468, 471, 474 r/w 120B, 419 r/w 120B, of IPC and Section 10, 13, 39 of Act r/w 511 of IPC, under Section 14(a) of the Foreigners Act, 1946 and under Sections 12(1)(b) and 12(1-A)(a) of the Act of 1967.

38.15 He stated that on the basis of cogent and irrefutable evidence, which has emerged till now, it is evident that remnant LTTE cadre is still active. He stated that there is a feeling among the Sri Lankan Tamilians and sympathizers that India is behind the victory of Sri Lankan Army over LTTE and this feeling may take a strong anti-India stance and hatred against the Indian Government, which is prejudicial to the security of the country and has the potential of disturbing peace and communal harmony and disrupting the secular fabric of the country.

38.16 In response to some questions raised by this Tribunal, PW-3 gave the following answers: -

**“Question No. 1:** In what manner you are associated with F.I.R. No. RC-02/2022/NIA/DLI?

**Answer:** I am currently the Investigating Officer in this case.

**Question No. 2:** In which District is the Indian Overseas Bank, Kilpauk Branch located?

**Answer:** Chennai, Tamil Nadu.

**Question No. 3:** Who is Hamida-A-Lalljee?

**Answer:** Hamida-A-Lalljee (late) is the mother of Iskandar Altaf Lalljee, who is on Board of Directors of Sud-Chemie India Pvt. Ltd. (SCIL). Hamida-A-Lalljee (late) was one of the partners in the said company and had savings account in Indian Overseas Bank, Fort Mumbai Branch.

**Question No. 4:** Is Hamida-A-Lalljee (late) a complainant in this F.I.R.?

**Answer:** No.

**Question No. 5:** The witness has been shown Ex. PW-3/8. Does this final charge sheet also pertain to Letchumanan Mary Franciska?

**Answer:** Yes. She is accused no. 1 in the charge sheet and particulars thereof are at page no. 65 of my affidavit.

**Question No. 6:** Does this charge sheet also array Keniston Fernando, K. Baskaran, Johnson Samuel, G. Dharmendiran and E. Mohan as accused?

**Answer:** Yes.

**Question No. 7:** Has Umakanthan been arrayed as an accused in the charge sheet?

**Answer:** No. However, a memo has been filed for arraying Umakanthan as an accused in this case. The memo has been filed in the NIA Court of Chennai for the said purpose.

**Question No. 8:** The attention of the witness is drawn to Ex. PW-3/9. What does the acronym 'MOs' stand for in the subject line of the letter dated 18.02.2022?

**Answer:** MOs stands for 'Material Objects'.

**Question No. 9:** What is the status of framing of charges in this F.I.R.?

**Answer:** The charges have been framed against all the accused including Letchumanan Mary Franciska.

**Question No. 10:** What is the status of trial in this F.I.R.?

**Answer:** Three witnesses have been examined and further statements are being recorded and the next date of hearing before the Trial Court is in November, 2024."

38.17 There was no cross examination of PW-3 on behalf of LTTE as none appeared on behalf of the association.

#### **RC-33/2022/NIA/DLI**

39. Mr. G.Kumaran, Deputy Superintendent of Police in the NIA, New Delhi was examined as PW-4 with respect to a case of FIR No. RC-33/2022/NIA/DLI since he is IO therein. He has filed an affidavit dated 28.08.2024 by way of evidence consisting of 16 pages before this Tribunal in support of the Notification dated 14.05.2024, which has been exhibited as **Ex.PW-4/A** and his signatures placed on each page of the affidavit have been marked as **Mark A1 to A17**.

39.1. He stated that NIA had investigated a case in which connection of main accused i.e., Naveen, Sanjay Prakash, A. Kabilar<sup>12</sup> and the organization sought to be banned i.e., LTTE has surfaced. He stated that the original case was registered at Omalur Police Station of Salem District, Tamil Nadu vide FIR in Cr. No. 302/2022 dated 19.05.2022 under Sections 25(1)(a), 25(1AA) and Section 25(1B)(a) of the Act of 1959 and Section 4(a) of the Act of 1908 against two (2) accused persons i.e., (i) Naveen and (ii) Sanjay Prakash, relating to recovery of two (2) country made pistols, ammunitions, gun powder, etc. during vehicle checking near Puliampatti Division by Tharamangalam Circle Inspector (in-charge) Omalur Police Station on 19.05.2022; The copy of FIR No.302/2022 dated 19.05.2022 has been exhibited as **Ex. PW-4/1**.

39.2. He stated that the instant case was transferred to 'Q' Branch CID for further investigation and it was re-registered as Cr. No.01/2022 under Sections 25(1)(a), 25(1AA) and 25(1B)(a) of the Act of 1959 and under Section 4(a) of the Act of 1908 on 24.06.2022.

39.3. He stated that considering the gravity of the offence and other factors involved, MHA entrusted the investigation to NIA. He stated that NIA re-registered the case as RC-33/2022/NIA/DLI ('Omalur PS Arms Case') under Sections 25(1)(a), 25(1AA) and 25(1B)(a) of the Act of 1959 and under Section 4(a) of the Act of 1908 on 25.07.2022 and took up the investigation and the final report was filed on 11.11.2022. He stated that this case is pending trial as Special SC No. 29/2022; the copy of charge sheet No.27/2022 dated 11.11.2022 is exhibited as **Ex. PW-4/2**.

39.4. He stated that the investigation disclosed the accused persons were inspired by LTTE and they associated themselves with LTTE, with an intention to further its activities in Tamil Nadu and wanted to create/establish an organization similar to LTTE in Tamil Nadu for fighting and waging war against the Government of Tamil Nadu/Government of India through armed struggle. He stated that the accused sought to achieve their objective with the help of one, Seelan Murugan of Germany (allegedly a member of Intelligence section of banned LTTE), one Kishok and other suspects of LTTE members. He stated that the accused in this case created an organization called 'World Tamil Justice Court' ('WTJC') similar to that of LTTE.

<sup>12</sup> A Kabilar @ Kabilan.

39.5. He stated that the investigation disclosed that the accused persons had decided to destroy a private commercial sand quarry and some random TASMAL wine shops in Salem. He stated that the accused chose 18.05.2022 as their first operation day as it marked the 'Mullivaikkal Remembrance Day', which is observed by Sri Lankan Tamil people and supporters of LTTE to pay homage to those, who were killed and died in the final stages of the Sri Lankan Civil War.

39.6. He further stated that the investigation also disclosed that the accused persons had hatched criminal conspiracies and had conducted training sessions to train on handling weapons, hand to hand combat, etc.

39.7. He stated that the accused had also hatched criminal conspiracy for the commission of the terrorist act with Seelan Murugan of Germany through 'Viber' application, 'Club House' application and Instagram application; and with one Kishok and other suspects of LTTE members too. The copy of data received from 'Viber' Platform has been exhibited as **Ex. PW-4/3**.

39.8. He stated that the investigation further disclosed that the accused had decided to manufacture country made pistol, rifle, bullets, pipe bombs, extraction of poison from castor bean seeds and water hemlock plant, route map to attack the quarries and logo for their organization called WTJC. He stated that accordingly, accused Naveen and Sanjay Prakash purchased raw materials and required tools and equipment from the local shops in and around Salem as well from online platforms and indulged in preparation and manufacturing of illegal firearms, hand grenade and accused conducted test fires in order to commit subversive activities in Salem and to execute terror attack. Copy of confession statements of Naveen, Sanjay Prakash and A. Kabilar have been exhibited as **Ex. PW-4/4, Ex. PW-4/5 & Ex. PW-4/6** and their English translation are exhibited as **Ex. PW-4/4A, Ex. PW-4/5A & Ex. PW-4/6A**.

39.9. He further stated that after collection of sufficient prosecutable evidences, NIA had filed charge-sheet against accused persons i.e., Naveen, Sanjay Prakash and A. Kabilar on 11.11.2022, assigned as Special SC No. 29/2022. He stated that during investigation several witnesses were examined and their statements were recorded under Section 161 and 164 of the Criminal Procedure Code, 1973 (Cr.P.C.), which revealed the active role of the three (3) accused persons. The copies of the statements of the prosecution witness viz. Azhagudurai (LW-1) has been filed, the same is in Tamil language and is marked as **Mark A**. Copies of statements of nine (9) protected witnesses code named as PW-A to PW-I, which were filed in a sealed cover as annexure were perused by the Tribunal and exhibited as **Ex. PW-4/7-1 to Ex. PW-4/7-9**. The statements exhibited as **Ex. PW-4/7-1 to Ex. PW-4/7-4** are in Tamil and their English translations were also enclosed. [The statements i.e., **Ex. PW-4/7-1 to Ex. PW-4/7-4** were again placed in a sealed cover and the sealed cover is marked as **Ex. PW-4/7**]. The copy of the scrutiny report of digital devices, TNFSD report, cloud data and social media extraction has been exhibited as **Ex. PW-4/8**.

39.10. He stated that on the basis of material on record, the evidence adduced by the witnesses and material available on record it is clear that, LTTE is a terrorist organization based in Sri Lanka but having supporters, sympathizers and agents in India and abroad, that even after its military defeat in May, 2009 in Sri Lanka LTTE has not abandoned the concept of 'Eelam' and has been clandestinely working towards the 'Eelam' cause by undertaking fund raising and propaganda activities and the remnant LTTE leaders or cadres have also initiated efforts to regroup the scattered activists and resurrect the outfit locally and internationally. He stated that there is a feeling amongst the Sri Lankan Tamilians and their sympathizers that India is behind the victory of Sri Lankan Army over LTTE and this feeling may take a strong anti-India stance and hatred against the Indian Government, which is prejudicial to the security of the country and has the potential of disturbing peace and communal harmony and disrupting the secular fabric of the country.

39.11. Some questions were put by this Tribunal to PW-4 in relation to his testimony and the answers given are as follows: -

**“Question No. 1:** How are you connected with RC-33/2022/NIA/DLI?

**Answer:** I am the present Investigating Officer in RC-33/2022/NIA/DLI.

**Question No. 2:** In your deposition, you have referred to the name of Seelan Murugan of Germany, is he also arrayed as an accused in the FIR (RC-33/2022/NIA/DLI)?

**Answer:** No.

**Question No. 3:** Similarly, is the individual referred to as Kishok also arrayed as an accused in the FIR (RC-33/2022/NIA/DLI)?

**Answer:** No.

**Question No. 4:** Are you aware about the nationality of the said Kishok?

**Answer:** No.

**Question No. 5:** Attention of the witness has been drawn to Ex. PW-4/3 and a question has been put as to from which accused's account this data has been retrieved?

**Answer:** Accused Naveen.

**Question No. 5:** Attention of the witness has been drawn to Ex. PW-4/8, the said exhibit is at pages 204 to 217 of the affidavit dated 28.08.2024. Can you please identify the relevant pages of this exhibit, which pertain to the report of cloud data and social media extraction?

**Answer:** The report pertaining to the report of cloud data and social media extraction is not a part of the exhibit filed on record. The witness has perused Ex. PW-4/8 and states that reports placed on record pertain to Ballistic reports only.

**Question No. 6:** What is the stage of the trial?

**Answer:** Framing of the charge."

39.12. There was no cross examination of PW-4 on behalf of LTTE as none appeared on behalf of the association.

40. Statement of Mr. Vinodan K. Deputy Superintendent of Police, NIA, Kochi and the Chief Investigation Officer in the two (2) cases i.e., RC-01/2021/NIA/KOC and RC-29/2022/NIA/DLI was recorded on 19.10.2024. He deposed as PW-5, on the basis of an affidavit dated 28.08.2024 consisting of 19 pages filed by him by way of evidence before this Tribunal, in support of the ban imposed by the Government of India vide Notification No. S.O.1983(E) dated 14.05.2024 for a period of five (5) years from 14.05.2024, which has been exhibited as **Ex.PW-5/A**. He identified his signatures on each page of the affidavit and the same were marked as **Mark 'A1' to 'A20'**.

40.1 He stated that said two (2) cases showed involvement of the ex-LTTE member(s) of LTTE, who were actively participating in the revival and furthering the activities of LTTE. He stated that the ex-cadres viz. Satgunam<sup>13</sup>, Suresh Raj, Kennedy Fernando and Selvakumar had participated in the terrorist activities of LTTE in India and Sri Lanka and NIA had investigated the two (2) cases, in which connection of all the accused with LTTE has surfaced.

#### **RC-01/2021/NIA/KOC**

40.2 He stated that vide order F. No. 11011/29/2021/NIA, dated 27.04.2021, MHA directed the NIA to register a case and take up investigation based on credible information received to the effect that a consignment consisting of 5 AK-56 rifles, 1000 nos. of Pakistan made ammunitions and 300.325 Kgs of Heroin had been seized by Indian agencies from the territorial waters of India on 18.03.2021. The Sri Lankan boat from which the said material was seized was subsequently brought to Vizhinjam, Thiruvananthapuram district, Kerala on 25.03.2021. He stated that accordingly, a case was re-registered as RC-01/2021/NIA/KOC at NIA Police Station, Kochi on 01.05.2021 under Section 7 read with Section 25(1AA) of the Act, of 1959.

40.3 He stated that since the investigation revealed the role of LTTE in the case and the affiliation of accused persons with the banned terrorist organization for furthering its activities, Sections 38, 39 and 40 of the Act have been invoked and a report has been submitted before the jurisdictional Court on 31.08.2021. True copies of FIR No. RC-01/2021/NIA/KOC dated 01.05.2021 along with MHA Order F. No. 11011/29/2021/NIA dated 27.04.2021 have been exhibited as **Ex.PW-5/1 & PW-5/1A**.

40.4 He stated that Indian Coast Guard had intercepted a Sri Lankan fishing boat, 'Raviansi' on 18.03.2021, which was found carrying the above-mentioned consignment and was brought to Vizhinjam, Thiruvananthapuram district, Kerala on 25.03.2021. He stated that the articles along with crew members (six persons) with the fishing boat were produced before Shri Shaiju Varghese, Intelligence Officer of Narcotics Control Bureau ('NCB'), Cochin at Vizhinjam, who, in turn, seized, packed and sealed the said articles under mahzar dated 25/26.03.2021. He stated that accordingly, the concerned Police Station registered a case being Cr.No.498/2021 and invoked Section 7 read with Section 25(1AA) of Act of 1959, which later on was transferred to NIA, Kochi and re-registered against six (06) named accused persons viz. 1. L.Y.Nandana, 2. H.K.G.B.Janaka Dasappriya, 3. AHS Mendis Gunasekhara, 4. S.A. Namesh Chullaka Senarath, 5. Thilanka Madushan Ranasingha and 6. Dadallage Nissanka. He stated that the said six (6) accused persons were formally arrested and taken into NIA's custody.

40.5 He further deposed that investigation revealed that contraband, arms and ammunition seized from the six (6) accused were being smuggled for the purpose of using the proceeds from their sale to revive and further the activities of LTTE. He stated that during investigation, the analysis of hits on the digital devices i.e., international incoming and outgoing calls on mobile phones of accused persons and other suspected mobile numbers and digital devices revealed the incriminating role played by LY Nishantha, owner of boat Raviansi, Suresh Raj and Soundarajan in the larger

<sup>13</sup> Satgunam@Sabesan.

conspiracy of the crime. He stated that accordingly, Suresh Raj, a Sri Lankan national and Soundarajan were arrested on 02.08.2021.

40.6 He stated that during custodial interrogation, both the accused disclosed that they were active members of LTTE and actively resurrecting LTTE in India and Sri Lanka since 2020 with the intention of avenging the murder of slain LTTE leader Velupillai Prabhakaran. He further stated that the investigation revealed that they had collected arms, ammunitions and amassed funds for such activities through drug trafficking, gold smuggling and hawala dealings.

40.7 He stated that during investigation, it was revealed that the accused persons, Suresh Raj and Soundarajan were in frequent contact with Robert Pious, a convicted accused in Rajiv Gandhi assassination case. He stated that it was further revealed that these accused had taken instructions from Rangan and Anju, Sri Lankan nationals based in Dubai and conspired at various location in Tamil Nadu for revival of LTTE.

40.8 He stated that digital devices seized from Suresh Raj and Soundarajan had several images of LTTE leaders including the images with Robert Pious, emblem of LTTE, arms etc., videos propagating the radical methods of LTTE and a voice message of Soundarajan was retrieved from the mobile of Soundarajan, which clearly indicated the affiliation of the accused persons with LTTE.

40.9 He stated that on 15.12.2021 NIA filed charge-sheet against 1. L.Y.Nandana (A-1), 2. H.K.G.B.Janaka Dasappriya (A-2), 3. S.A. Namesh Chullaka Senarath (A-4), 4. Thilanka Madushan Ranasingha (A-5), 5. Dadallage Nissanka (A-6), 6. Suresh Raj (A-7), 7. Loku Yaddehige Nishantha<sup>14</sup> (absconding) (A-9), 8. Ramesh A (A-10), 9. Satkunam (A-15) under Sections 120B, 125, 465 and 471 of IPC read with Sections 18, 20, 38, 39 & 40 of the Act, Section 7 read with Section 25(1AA) of the Act of 1959, Section 8 (c) read with Sections 21(c), 23(c), 24, 27A, 28 and 29 of NDPS Act. He stated that further investigation is continuing against the absconding accused. Copy of the final report dated 15.12.2021 filed before the Special Court, Kochi against charge sheeted accused i.e., L Y Nandana and 08 others in this case has been exhibited as **Ex. PW-5/2**.

#### **RC-29/2022/NIA/DLI**

40.10 He stated that, a Sri-Lankan drug mafia controlled by C. Gunashekharan<sup>15</sup> and Pushparajah<sup>16</sup> (A-2) in association with Haji Salim, a drug and arms trafficker based in neighbouring country have been operating in India and Sri Lanka in illegal drugs and arms trade for revival of LTTE. He stated that the other members of the gang(s) operating in India have been identified as 1. Mohammad Asmin (A-3), 2. Alahapperumaga Sunil Ghamini Fonseka<sup>17</sup> (A-4), 3. Stanly Kennady Fernando (A-5), 4. Dhanukka Roshan, (A-6), 5. Ladiya (A-7) and 6. Asitha Noyal Kumara (A-8).

40.11 He stated that considering the gravity of offence Government of India directed the NIA, Kochi to take up investigation and subsequently under orders of MHA No. 11011/55/2022/NIA dated 05.07.2022, a case in Crime No. RC-29/2022/NIA/DLI was registered on 08.07.2022 at NIA PS Delhi under Section 120B IPC, Section 18, 20, 38, 39 & 40 of the Act and Section 8(c) read with Section 21(c), 23(c), 24, 27A, 28 and 29 of NDPS Act. True copies of FIR No. RC-29/2022/NIA/DLI dated 08.07.2022 and order of MHA dated 05.07.2022 have been exhibited as **Ex. PW-5/3 and PW-5/3A**.

40.12 He stated that as a part of investigation various digital devices and documents were seized from various places and on the basis of digital data extracted, the witnesses were examined and their statements under Section 161 of Criminal Procedure Code, 1973 (Cr.P.C) were recorded which revealed that the accused were ex-LTTE members. He stated that bank statements, call data records etc. were collected, which revealed several suspicious transactions as well as communications qua the accused having accrued and accumulated huge amount of funds through illegal drug trafficking. He stated that diaries/notebooks of the accused persons seized during search showed several markings and narcotic drugs distributions with huge amount of cash.

40.13 He stated that during the course of investigation, the role of the accused persons including Vella Suranka<sup>18</sup> (A-9), Thilipan<sup>19</sup> (A-10), Selvakumar M (A-11), Vigneswara Perumal<sup>20</sup> (A-12) and other 2 Sri Lankan nationals have been revealed and a separate memo has been filed before the concerned NIA Court for arraying them as accused on 02.11.2022 and 03.11.2022 and further arrayed Haji Salim and Lingam A as accused. He stated that during investigation, the accused C Gunashekharan, Pushparajah, Mohammad Asmin, Alahapperumaga Sunil Ghamini

<sup>14</sup> Loku Yaddehige Nishantha @ L.Y. Nishantha @ Sudda

<sup>15</sup> C. Gunashekharan @ Guna

<sup>16</sup> Pushparajah @ PookuttiKanna

<sup>17</sup> Alahapperumaga Sunil Ghamini Fonseka @ Kottaghamini @ Sunil Ghamini @ Neelakandan

<sup>18</sup> Vella Suranka @ Gamage Suranga Pradeep @ Suranga

<sup>19</sup> Thilipan @ Dileepan

<sup>20</sup> Vigneshwar Perumal @ Vicky

Fonseka, Stanly Kennady Fernando, Dhanukka Roshan, Vella Suranka, Thilipan were arrested from Special Camp, Kottappattu, Trichy on 19.12.2022 and Selvakaumar, Asitha Noyal Kumara, Ayyappa Nandu (A-13), and Vigneswara Perumal were arrested thereafter. He stated that the accused persons had entered India with an aim of promoting and furthering the activities of LTTE and for indulging in collecting funds through illegitimate sources. He stated that during the digital device analysis, list of accused persons was extracted and several crypto currency transactions of huge amounts of money were identified and found to be linked with some foreign WhatsApp numbers, based in Dubai and Sri Lanka. He stated that investigation revealed the accused persons had close nexus with LTTE and common intention to revive LTTE.

40.14 He stated that preliminary charge-sheet has been filed before the Special Court of NIA Court, Poonamallee, Chennai on 15.06.2023 against 13 accused persons viz. C Gunashekar (A-1), Pushparajah (A-2), Mohammad Asmin (A-3), Alahapperumaga Sunil Ghamini Fonseka (A-4), Stanly Kennady Fernando (A-5), Dhanukka Roshan (A-6), Ladiya<sup>21</sup> (A-7), Vella Suranka (A-9), Thilipan (A-10), Selvakaumar (A-11), Vigneswara Perumal (A-12), Iyyappan Nandhu<sup>22</sup> (A-13) and Danarathnam Nilukshan (A-14). The final report dated 15.06.2023 has been exhibited as **Ex. PW-5/4**.

40.15 He stated that during further investigation, the incriminating role and willful involvement of Lingam A in reviving the activities of LTTE by joining hands with the other accused, who are LTTE cadres, especially Gunasekaran was revealed, hence, Lingam A was arrested on 24.08.2023 by NIA and supplementary charge-sheet against him has been filed on taken on record on 15.02.2024. True copies of statements of Anoop Sathyan, Soundarajan, K. Karthik Raja, Selvakumar (along with English Translation), Gamini Fonseka (along with English Translation) and Thatheeswaran has been exhibited as **Ex. PW-5/5 to PW-5/10** and English translations are marked as **Ex. PW-5/8A and PW-5/9A**.

40.16 He stated that the above two (2) cases are pending before the Special Court for Trial of NIA cases, Ernakulam and Special Court for NIA cases, Poonamallee, Chennai and the trial is yet to commence. He stated that from the cogent and irrefutable evidence, which has emerged, it is evident that ex-member(s) of LTTE have been actively and continuously engaged in propagating anti-national activities aimed at causing disaffection, disloyalty and dis-harmony against the Government of India and acting in manner prejudicial to sovereignty and territorial integrity of India.

40.17 Answers given by PW-5 to the questions raised by the Tribunal are as under: -

**“Question No. 1:** You have mentioned in the affidavit that the trial has not begun in these cases. What is the next date before the Trial Court and what is the next stage of proceedings?

**Answer:** The next date of hearing before the Trial Court in the case registered as RC-01/2021/NIA/KOC is 14.11.2024. On the said date, the matter is fixed for remand. The charges are yet to be framed. The matter is thus, listed for procedural orders on the said date.

Last date of hearing before the Trial Court in RC-29/2022/NIA/DLI was 09.10.2024. I can't recollect the next date of hearing instantaneously. In this case as well, the charges are yet to be framed and the matter will be next listed for procedural hearing.

**Question No. 2:** You have mentioned in the first case that Soundarajan was arrested on 02.08.2021, but as per details mentioned in the affidavit no charge-sheet no charge appears to have been filed against Soundarajan. Please explain.

**Answer:** In RC-01/2021/NIA/KOC, Soundarajan was arrested on 02.08.2021, however, since he has turned an approver, no charge-sheet has been filed against him.

**Question No. 3:** Soundarajan also finds a reference in your affidavit with respect to the second case registered in 2022?

**Answer:** Soundarajan is enlisted as a prosecution witness in the second FIR RC-29/2022/NIA/DLI.

**Question No. 4:** You have stated in the affidavit that in the first case you concluded that Soundarajan and Suresh Raj A were in contact with one Robert Pious. Where was Robert Pious physically located at the relevant time?

**Answer:** At the relevant time, Robert Pious was lodged in the jail.

I am instantaneously not aware whether Robert Pious is currently lodged in the jail or has been released.

**Question No. 5:** Are you currently the Investigating Officer in both the cases?

<sup>21</sup> Ladiya @ nalin Chathuranga @ Ladiya Chandrasena

<sup>22</sup> Iyyappan Nandhu @ Ayyappan Nandhu

**Answer:** The charge-sheets in both the FIRs have been filed by my predecessor, however, currently, I am the Investigating Officer in both the FIRs.”

40.18 There was no cross examination of PW-5 on behalf of LTTE as none appeared on behalf of the association.

41. Mr. Abhijit Sinha, Joint Secretary, Courter Terrorism and Counter Radicalisation (CTCR) Division, MHA was examined on oath on 24.10.2024 as PW-6. He had filed an affidavit dated 16.10.2024 consisting of 06 pages along with annexure before this Tribunal in support of the Notification dated 14.05.2024 issued by the Government of India, thereby declaring LTTE as an ‘Unlawful Association’ under the Act for a period of five (05) years from 14<sup>th</sup> May, 2024 and the said affidavit has been exhibited as **Ex.PW-6/A**. He identified his initials on first five (5) pages and his signatures on page 6 of the affidavit at two places, which have been marked as **Mark B1 to B5 and Mark A1 and A2** respectively.

41.1 He stated that as per the information and material received from the Central Intelligence agencies and Investigation agencies pertaining to the unlawful activities of the LTTE, it has been found that the LTTE cadres/sympathizers are still active and continue to look at Tamil Nadu as a base for carrying out anti-India activities. He stated that therefore, the Government of India exercising its powers under Section 3 of the Act issued the aforesaid Notification dated 14.05.2024 declaring LTTE as an unlawful association; copy of the notification has been exhibited as **Ex. PW-6/1**.

41.2 He stated that in terms of provisions of Section 4(1) of Act, 1967 and Rule 5 of the Rules, the Government of India vide letter dated 12.06.2024 submitted a reference/background note to this Tribunal in the matter for adjudication in which unlawful activities of LTTE cadres/sympathizers have been mentioned. Copy of the said reference/background dated 12.06.2024 has been exhibited as **Ex. PW-6/2**.

41.3 He stated that Government of India, for the first time vide Notification No. 330 (E) dated 14.05.1992 declared LTTE as an unlawful association under the Act for a period of two (2) years and thereafter, in view of the continuous unlawful activities of LTTE, the organization was further banned from time to time on 14.05.1994, 14.05.1996, 14.05.1998, 14.05.2000, 14.05.2002, 14.05.2004, 14.05.2006, 14.05.2008, 14.05.2010, 14.05.2012, 14.05.2014 and 14.05.2019. He stated that the ban imposed by Government of India has been confirmed by the earlier Tribunals every time; copies of Notification(s) passed by the Government of India from time to time declaring LTTE as an unlawful association have been exhibited as **Ex. PW-6/3 (colly)**.

41.4 He stated that Government of India has information that the activities of the LTTE remnant cadres, dropouts, sympathizers, supporters, which have been traced out recently in the State of Tamil Nadu suggest that the same would be utilized for furtherance of their unlawful activities. He further stated that the activities of Pro-LTTE organization(s) and individual(s) have come to notice of the Government of India, that they would extend their support to the LTTE.

41.5 He stated that despite the elimination of its top leadership including V. Prabhakaran by the security forces of Sri Lanka, several LTTE cadres/sympathizers are being arrested and prosecuted. He stated that the LTTE’s objective for a separate homeland (Tamil Eelam) for Tamils is still in its forefront agenda, which threatens the sovereignty and integrity of India and amounts to an attempt of secession of a part of the territory of India from the Union and thus falls within the ambit of unlawful activities. He therefore, emphasized that the ban on the LTTE must be continued.

41.6 He stated that pro-LTTE/sympathizer living abroad continue to spread propagandas and campaign against Government of India and its policies. He stated that this propaganda aims to generate anti-India feeling amongst the Sri Lankan Tamils by holding top India political leaders and bureaucrats responsible for the defeat of the LTTE, such propagandas, if continued, is likely to affect VVIP security adversely in India.

41.7 He stated that the Pro-LTTE groups continue to foster a separatist tendency amongst the masses and enhance the support base for LTTE in India and particularly in Tamil Nadu, if allowed to continue, it will have strong disintegrating influence over the territorial integrity of India. He stated that hence, there is a clear need to control such separatist activities by all possible lawful means. He stated that keeping these facts in mind, the Government of India has issued Notification dated 14.05.2024 for continuing the ban on LTTE. He stated that LTTE is one of the terrorist organizations listed in the first schedule of the Act by the Government of India.

41.8 He stated that the investigation of cases registered against LTTE cadres/sympathizers/followers show their indulgence in various unlawful activities. He stated that four (4) cases have been registered by NIA against LTTE cadres/members/followers /sympathizers since 14.05.2019, which throw light on their continued unlawful activities.

41.9 He stated that the State of Tamil Nadu has also filed affidavits before this Tribunal in respect of cases registered in Tamil Nadu and have adduced evidence in support of the ban imposed on LTTE vide notification dated 14.05.2024. He stated that in addition to the above adduced evidence, various intelligence inputs show that LTTE has been continuing its unlawful activities which are prejudicial to the security of India; the reports received from the Central Intelligence Agencies have been provided along with the affidavit in sealed cover. The sealed covers



were opened, the contents examined and have been exhibited as **Ex. PW-6/4 and Ex. PW-6/5**. [The documents were again placed in a sealed cover]. The sealed cover is now being marked as **T-1**.

41.10 He stated that in view of the position stated above, the decision of the Government of India in declaring the LTTE as an unlawful association under the Act is just, proper and bonafide and the declaration of the Government of India to ban LTTE vide Notification No. SO 1983 (E) dated 14.05.2024 is apt to be confirmed.

41.11 He further stated that Tamil Eelam concept remains a goal amongst the pro-LTTE organization and if the ban on LTTE as an unlawful association is lifted, it is likely to be highly detrimental to the sovereignty and territorial integrity of India. He stated that if the present declaration is not confirmed, there could be a possibility of virulent and rabid elements among the members from the pro-LTTE/pro-Eelam groups sheltering/extending logistic support to the LTTE cadres, who may cross over to the Tamil Nadu, which would pose a threat to the security of India and without declaring LTTE an unlawful association, it would be difficult to check the disruptive activities of LTTE that are a threat to the sovereignty and territorial integrity of India.

41.12 He stated that if the ban on LTTE is not continued, it will give a free way to all the cadres/members/followers/sympathizers of LTTE to do its unlawful activities in the country. He stated that therefore, the decision of the Government of India banning LTTE organization under the provision of the Act is just, proper, bonafide and in the national interest and sovereignty of India.

41.13 There was no cross examination of PW-6 on behalf of LTTE as none appeared on behalf of the association.

#### **Submissions on behalf of Union of India**

42. Learned ASG submitted that based on the information and material received from the State of Tamil Nadu, NIA and various intelligence agencies with regard to LTTE's unlawful activities, LTTE has been declared as an unlawful association under the Act in the year 2024 by Ministry of Home Affairs, Government of India vide its Gazette Notification No. S.O. 1983(E) dated 14.5.2024. He stated that in the said notification, the Government of India has elaborated the grounds whereupon it has been opined that LTTE is still indulging in activities which are prejudicial to the integrity and security of the nation. He submitted that the Notification dated 14.05.2024 has been issued in view of the fact that LTTE through its members has continuously indulged in advocating cessation and secession of the territorial integrity of India. He further submitted that LTTE is based in Sri Lanka but has its sympathizers, supporters, agents and operators in the territory of India and is capable of making inroads and gaining local support in Tamil Nadu and certain pockets of southern India due to linguistic, cultural, ethnic, historical and geographical affinity with Tamils in India and those in Sri Lanka. He stated that the said organization has been assiduously cultivating elements and groups who are inspired by the concept of Tamil Eelam i.e., a separate Tamil homeland and the main objectives of the banned organization- LTTE refers to all Tamils irrespective of geographical distinction. He stated that an inference is irresistible that while the immediate struggle of LTTE is against the Government of Sri Lanka, however, given the geographical contiguity and ethnic affinity, it also includes the Tamil areas of Tamil Nadu, thus poses a real and serious threat to the sovereignty and territorial integrity of India.

42.1 He stated that LTTE was first declared as an unlawful association under the Act on 14.05.1992 and has been further notified as an unlawful association from time to time and recently on 14.05.2024. He stated that there is substantial evidence and material available against the proscribed association which justifies confirmation of ban imposed on it.

42.2 He stated that with a view to invite public representation in support or against the ban on LTTE, this Tribunal held its sittings at Chennai and Madurai in the State of Tamil Nadu and in Delhi for the purpose of recording evidence on behalf of the State of Tamil Nadu, investigating agencies and/or from members of proscribed association. He stated that no cross-examination of the witnesses was done by either the proscribed organisation or the members of LTTE, despite sufficient opportunities being granted by this Tribunal.

42.3 He stated that declaration of an association to be 'unlawful' by the Government of India under Section 3 of the Act is after forming an opinion that the said association is or has become unlawful. He stated that if the activities of any association falls within the provisions of Section 2(1)(p) of the Act, such association may be declared as an unlawful association. He stated that ingredients of 'unlawful activity' as defined under Section 2(o) of the Act requires the objective consideration of this Tribunal to reach to the conclusion of declaring an association as unlawful under the Act. He further stated that the opinion formed by this Tribunal will be governed by the principles applicable to Civil Law and accordingly, the principles of preponderance of probabilities will apply in these proceedings and not the principle of proof beyond reasonable doubt. In order to substantiate the said averments, he relied upon the judgment of the Supreme Court in **Jamaat-E-Islami Hind v. Union of India**<sup>23</sup>.

<sup>23</sup> (1995) 1 SCC 428

42.4 He stated that earlier Tribunals constituted under the Act for declaration of various organisations as unlawful association have decided over the nature of proceedings and admissibility of statements under Section 161 CrPC<sup>24</sup> and the Evidence Act. He stated that therefore, the decision of the Government of India to declare LTTE as ‘unlawful association’ is based entirely on the documentary evidence and testimonies of the witnesses/ protected witnesses filed during the course of investigation by different investigating agencies.

42.5 He submitted that the claim of privilege by the Union of India for the documents placed in sealed cover is made as the documents filed in sealed cover marked as **Ex. PW-6/4 and Ex. PW-6/5** are of such a nature that the non-disclosure of them is in the interest of the public. He stated that in the cases concerning national security, sovereignty and integrity, this Tribunal has to interpret and analyze the material differently. He stated that documents for which claim of privilege is sought, by their very nature, are confidential and sensitive in nature and therefore, cannot be supplied as a public document. He stated that Rule 3(2) of the Rules, 1968 provides that the Tribunal shall not make the documents etc. part of the proceedings or allow inspection, if the said documents are claimed to be of confidential nature and the Tribunal being a creature of the statute, therefore, is bound by the mandate of the aforesaid Rule 3(2). He stated that as per Section 123 of the Indian Evidence Act, 1872<sup>25</sup> claims of privilege should be made with the permission of the head of the department.

42.6 He further submitted that there is overwhelming evidence available against the proscribed association for confirming its ban, the details in support of the said submission, Annexure A-1, A-2 and A-3 have been attached with the written submissions. Annexure A-1 is a chart with details of all the FIRs/RCs registered post 2019 that have connection with LTTE’s continuing activities on the Indian soil, and Annexure-2 contains details of the depositions made by witnesses and documents tendered in relation to these FIRs/RCs that show that the accused admitted their connections with the LTTE. Annexure-3 is a chart containing information about seizure reports and seized/forged items/documents in relation to the aforementioned FIRs/RCs.

42.7 Lastly, it was submitted by the learned ASG that in the present times, the information technology is advancing rapidly controlling trans-border crimes has become increasingly challenging for the law enforcement authorities and the perpetrators of crime need not have their locus in the territory of India to cause threat to the sovereignty and territorial integrity of India. In this background, the role played by LTTE cadres while sitting in foreign countries to involve Indians in the criminal activities, as was done in aforesaid cases, confirms that the LTTE cadres despite the existence of the ban have shown scant regard for the sovereignty of India and have further not abandoned their aim for Eelam through an armed struggle in Sri Lanka on the basis of funds raised in India through unlawful and criminal activities.

#### **Submissions on behalf of Mr. Vaiko**

48. Mr. R. Murali learned Counsel appearing for Mr. Vaiko stated that LTTE has been declared as an unlawful association by a notification dated 14.05.1992 and thereafter the ban has been extended by subsequent notifications and all the said notifications were confirmed by the different Tribunals constituted from time to time, however, after the final battle on Mullaitivu on 18.05.2009 the LTTE has become dormant and inactive.

48.1 He stated that the last ban was imposed in May, 2019 and the said declaration expired on 14.05.2024. He stated that for the ban to continue the Government of India has to show to this Tribunal that there are unlawful activities happening in the last five (5) years when the ban was in place and subsisting.

48.2 He stated that the main bone of contention by the Government of India in declaring the LTTE as an unlawful association is that the LTTE’s object for a separate homeland (Tamil Eelam) for all Tamils threatens the sovereignty and territorial integrity of India, and amounts to cession and secession of a part of the territory of India from the Union, which activity is ascribed by the Government of India as unlawful activity. He stated that the said object of LTTE for separate homeland for Tamil Eelam is restricted only to the Tamils living in the Northern and Easter part of Sri Lanka. He stated that the word ‘Eelam’ itself connotes ‘Territorial Land within Sri Lanka’. He stated that the object of LTTE is not to have a separate homeland for Tamils in all the places of the world where Tamils are living, but instead it is only limited and restricted to Tamils living in Sri Lanka.

48.3 He stated that object of establishment of Tamil Eelam is not intended to take even an inch of land belonging to Indian Territory. There is no material whatsoever placed before this Tribunal to support the apprehension exhibited by the Government of India that the concept of Tamil Eelam includes annexation of any part of Indian Territory.

48.4 He stated that no activity either by the LTTE or pro-LTTE organization or by sympathizers of LTTE has taken place within the State of Tamil Nadu or in any part of India propagating the establishment of a separate homeland i.e., Tamil Eelam for all Tamils including Tamil living in India. He stated that, therefore, the Government of

<sup>24</sup> Corresponds to Section 180 of Bharatiya Nagarika Suraksha Sanhita, 2023

<sup>25</sup> Section 129 of The Bhartiya Sakshya Adhinyam, 2023

India has not placed on record any material which would show that an activity was done in furtherance of objective of Eelam in India which would be termed as Unlawful Activity.

48.5 He stated that accusation of the Government of India that the object of the LTTE threatens the sovereignty and territorial integrity of India amounting to the cession and secession of a part of the territory of India from the Union is unsubstantiated and made to bring LTTE within the ambit of the Act.

48.6 He stated that the driving force behind the objective to be achieved by the LTTE is the 'Vattukottai Resolution of May, 1976', wherein it was resolved that State of Tamil Eelam shall consist of the people of the Northern and Eastern provinces and shall also ensure full and equal rights of citizenship of the State of Tamil Eelam to all Tamil speaking people living in any part of Ceylon and to Tamils of Eelam origin living in any part of the world who may opt for citizenship of Tamil Eelam. He stated that, therefore, the concept of Tamil Eelam is not inclined to take over even an inch of Indian soil within it.

48.7 He stated that the then LTTE leader Prabhakaran used to address the gathering of Hero's Day every year on 27th November, wherein the map of Tamil Eelam used to be displayed and perusal of the said map would show that no part of India or specifically Tamil Nadu is included in the said map. He stated that the said map is the official map of Tamil Eelam. He stated that one such evidence is the speech of 27.11.2008 wherein Prabhakaran stated that LTTE is not claiming any part of India or any other country in the world other than Sri Lanka.

48.8 He stated that Sathasivam Krishnakumar, known as 'Kittu' one of the founding members of the LTTE on 27.11.1990, in Zurich, on Hero's Day, 1990 answering the question of reporter as to what are the boundaries of Tamil Eelam, stated that:

"Take a map of the island. Take a paintbrush and paint in red colour in all the areas where Sri Lanka has bombed and launched artillery attacks during these past several years. When you have finished, the painted area that you see that is Tamil Eelam."

48.9 He stated that there are no recent terror activities of LTTE which have been caught in India and also there is no base camp in India or Tamil Nadu of the LTTE.

48.10 He stated that if the activities of an association or its office bearers, or members are unlawful then the Act empowers the Government of India to declare the said specified association as unlawful. Any activity by any person other than the said Association or by its office-bearers or its member cannot be a sufficient ground to declare the said association as unlawful.

48.11 He stated that the reason contained in the notification is that the LTTE sympathizers living abroad continue to spread anti-India propaganda among Tamils holding the Government of India responsible for the defeat of the LTTE, which, if not checked, is likely to develop a sense of hate among Tamil Populace towards the Central Government and the Indian Constitution. This reasoning has nothing to do with any of the provisions of the Act particularly to rely as a ground for declaring the LTTE as an unlawful association.

48.12 He stated that the allegation of exploitation of the situation prevailing in Sri Lanka by any individual groups, organizations, and political parties even the Pro-LTTE forces supporting the cause of the LTTE cannot be a ground to declare LTTE as an unlawful Association as per Section 2(p) of the Act.

48.13 He stated that possibility theory and suspicion cannot be a proof of the fact. No association can be termed as unlawful out of suspicion and possibility of certain activities. Therefore, the possibility theory cannot be a base to declare an association as involved in unlawful activities.

48.14 He stated that any support to LTTE cannot be termed as illegal. Any activity or expression which does not have the element or consequence of furthering or encouraging unlawful activity or facilitating its commission; that per se or mere expression of sympathy or other activities such as propagation through democratic means which does not have effect to further the unlawful activity or commission of unlawful activity performed by other organization be it pro-LTTE cannot be a valid ground to declare the LTTE as an unlawful association.

48.15 He stated that when the activities are only in the nature of sympathizing with the suffering of Tamils living in Sri Lanka and which are not a threat to the sovereignty and territorial integrity of India or public order, then such activities cannot be said to prejudice the sovereignty and territorial integrity of India or public order. He stated that the applicant is a patriot and would not support any claim by any party to any territory of India and since LTTE does not claim any right to territory in India, the applicant herein sympathises with the Tamil Eelam. He stated that Tamils in India consider Tamils in Sri Lanka as their brothers and sisters since they are bound by ethnicity and, therefore, the Tamils in India sympathize with the cause of Tamils in Sri Lanka.

48.16 He stated that the Union of India neither produced any documentary evidence nor any oral submissions to substantiate the grounds nos. i) to v) mentioned in Notification dated 14.5.2024. The PW 1 to PW 6 relied only on ground no. vi) and adduced evidence to substantiate the said ground. The mere opinion of the Union of India cannot be appreciated by this Tribunal, and the burden of proof lies on the part of the Union of India.

48.17 He lastly stated that allegedly no LTTE members were directly connected to the criminal cases as deposed by the six (6) witnesses and no LTTE members have been made accused in the four (4) FIRs. He stated that crime committed by individuals has no nexus to the activities of the LTTE. He stated that there are contradictions in the testimonies of PWs, which make the testimonies unreliable.

### **FINDINGS AND ANALYSIS**

49. At the outset, this Tribunal primarily has to see and adjudicate as to whether LTTE, as an organisation stands wholly decimated or continues to survive despite the military setback suffered by it in Sri Lanka and as to whether the Government of India has been able to put cogent and relevant material before this Tribunal justifying issuance of the Notification dated 14.05.2024. As per the background note submitted by the Government of India on 12.06.2024, LTTE cadres are still indulging in unlawful activities on the Indian soil which necessitated the Government of India in declaring LTTE to be an unlawful association.

50. The LTTE was for the first time, declared an unlawful association by Notification dated 14.05.1992 and such declaration has been extended from time to time till date and successively confirmed by all the Tribunals constituted thereof. Each and every Tribunal after having gone through the material placed before it as well as the testimonies of the witnesses and the evidence adduced held that there was sufficient cause for declaring the LTTE to be an unlawful association within the meaning of the Act. It is submitted by the Government of India that LTTE remnant cadres, dropouts, sympathizers and supporters, who have been traced out in the State of Tamil Nadu suggest that they are being utilized for the furtherance of unlawful activities and LTTE's objective for a separate homeland (Tamil Eelam) for Tamils is still in its forefront agenda. The evidence affidavits of PW-1 and PW-6 also contain various details of other cases with regard to disruptive activities being carried out from time to time by various Sri Lankan persons, who are ex-LTTE cadres and continue with their activities for the revival of LTTE, which are detrimental to the territorial integrity and sovereignty of India.

51. In order to determine and adjudicate whether there is sufficient cause for declaring the LTTE as an unlawful association it will be necessary to examine what 'unlawful association' and 'unlawful activities' mean under the Act. The expression "Unlawful Association" has been defined under Section 2(p) of the Act, which reads as under: -

"Unlawful Association" means any association –

- (i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or
- (ii) which has for its object any activity which is punishable under section 153A (45 of 1860) or section 153B of the Indian Penal Code, or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir;

52. The expression "Unlawful Activity" has been defined in Section 2(o) of the Act, which reads as under: -

"Unlawful Activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—

- (i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or
- (ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or
- (iii) which causes or is intended to cause disaffection against India;"

53. The expressions "Unlawful Activity" and "Unlawful Association" as contained in the Act came up for consideration before the Apex Court in the case titled as **Jamaat-E-Islami Hind v. Union of India (supra)**. The relevant observations of the said judgment is set out as below: -

"An "unlawful activity", defined in clause (f), means "any action taken" of the kind specified therein and having the consequence mentioned. In other words, "any action taken" by such individual or association constituting an "unlawful activity" must have the potential specified in the definition. Determination of these facts constitutes the foundation for declaring an association to be unlawful under subsection (1) of Section 3 of the Act. Clause (g) defines "unlawful association" with reference to "unlawful activity" in sub-clause (i) thereof, and in sub-clause (ii) the reference is to the offences punishable under Section 153-A or Section 153-B of the Indian Penal Code. In sub-clause (ii), the objective determination is with reference to the offences punishable under Section 153-A or Section of the I.P.C. while in sub-clause (i) it is with reference to "unlawful activity" as defined in clause (f). These definitions make it clear that the determination of the

question whether any association is, or has become, an unlawful association to justify such declaration under sub-section (1) of Section 3 must be based on an objective decision; and the determination should be that 'any action taken' by such association constitutes an "unlawful activity" which is the object of the association or the object is any activity punishable under Section 153A or Section 153-B, I.P.C. It is only on the conclusion so reached in an objective determination that a declaration can be made by the Central Government under sub-section (1) of Section 3.

54. As regards the nature of inquiry contemplated under Section 4(3) of the Act, the Supreme Court in **Jamaat-E-Islami Hind v. Union of India (supra)** held as under: -

"11.....The nature of inquiry contemplated by the Tribunal requires it to weigh the material on which the notification under sub-section (1) of Section 3 is issued by the Central Government, the cause shown by the association in reply to the notice issued to it and take into consideration such further information which it may call for, to decide the existence of sufficient cause for declaring the association to be unlawful. The entire procedure contemplates an objective determination made on the basis of material placed before the Tribunal by the two sides; and the inquiry is in the nature of adjudication of a lis between two parties, the outcome of which depends on the weight of the material produced by them. Credibility of the material should, ordinarily, be capable of objective assessment. The decision to be made by the Tribunal is "whether or not there is sufficient cause for declaring the association unlawful". Such a determination requires the Tribunal to reach the conclusion that the material to support the declaration outweighs the material against it and the additional weight to support the declaration is sufficient to sustain it. The test of greater probability appears to be the pragmatic test applicable in the context."

...

17. The reference to the Tribunal is for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful. Obviously the purpose is to obtain a judicial confirmation of the existence of sufficient cause to support the action taken....

...

21. To satisfy the minimum requirements of a proper adjudication, it is necessary that the Tribunal should have the means to ascertain the credibility of conflicting evidence relating to the points in controversy. Unless such a means is available to the Tribunal to determine the credibility of the material before it, it cannot choose between conflicting material and decide which one to prefer and accept. In such a situation, the only option to it would be to accept the opinion of the Central Government, without any means to test the credibility of the material on which it is based. The adjudication made would cease to be an objective determination and be meaningless, equating the process with mere acceptance of the ipse dixit of the Central Government. The requirement of adjudication by the Tribunal contemplated under the Act does not permit abdication of its function by the Tribunal to the Central Government providing merely its stamp of approval to, the opinion of the Central Government. The procedure to be followed by the Tribunal must, therefore, be such which enables the Tribunal to itself assess the credibility of conflicting material on any point in controversy and evolve a process by which it can decide whether to accept the version of the Central Government or to reject it in the light of the other view asserted by the association. The difficulty in this sphere is likely to arise in relation to the evidence or material in respect of which the Central Government claims non-disclosure on the ground of public interest.

22. It is obvious that the unlawful activities of an association may quite often be clandestine in nature and, therefore, the source of evidence of the unlawful activities may require continued confidentiality in public interest. In such a situation, disclosure of the source of such information, and, may be, also lull particulars thereof, is likely to be against the public interest. The scheme of the Act and the procedure for inquiry indicated by the Rules framed thereunder provide for maintenance of confidentiality, whenever required in public interest. However, the non-disclosure of sensitive information and evidence to the association and its office bearers, whenever justified in public interest, does not necessarily imply its non-disclosure to the Tribunal as well. In such cases where the Tribunal is satisfied that non-disclosure of such information to the association or its office bearers is in public interest, it may permit its non-disclosure to the association or its office bearers, but in order to perform its task of adjudication as required by the Act, the Tribunal can look into the same for the purpose of assessing the credibility of the information and satisfying itself that it can safely act on the same. In such a situation, the Tribunal can devise a suitable procedure whereby it can itself examine and test the credibility of such material before it decides to accept the same for determining the existence of sufficient cause for declaring the association to be unlawful. The materials need not be confined only to legal evidence in the strict sense. Such a procedure would ensure that the decision of the Tribunal is an adjudication made on the points in controversy after assessing the credibility of the material it has chosen to accept, without abdicating its function by merely acting on the ipse dixit of the Central Government. Such a course would satisfy the minimum requirement of natural justice tailored to suit the circumstances of each

case, while protecting the rights of the association and its members. 'without jeopardising the public interest. This would also ensure that the process of adjudication is not denuded of its content anti the decision ultimately rendered by the Tribunal is reached by it on all points in controversy after adjudication and not by mere acceptance of the opinion already formed by the Central Government.

...

25. Such a modified procedure while ensuring confidentiality of such information and its source, in public interest, also enables the adjudicating authority to test the credibility of the confidential information for the purpose of deciding whether it has to be preferred to the conflicting evidence of the other side. This modified procedure satisfies the minimum requirements of natural justice and also retains the basic element of 'an adjudicatory process which involves objective determination of the factual basis of the action taken.

26. An authorised restriction saved by Article 19(4) on the freedom conferred by Article 19(1)(c) of the Constitution has to be reasonable. In this statute, provision is made for the notification to become effective on its confirmation by a Tribunal constituted by a sitting High Court Judge, on adjudication, after a show cause notice to the association, that sufficient cause exists for declaring it to be unlawful. The provision for adjudication by judicial scrutiny, after a show cause notice, of existence of sufficient cause to justify the declaration must necessarily imply and import into the inquiry, the minimum requirements of natural justice to ensure that the decision of the Tribunal is its own opinion, formed on the entire available material, and not a mere imprimatur of the Tribunal affixed to the opinion of the Central Government. Judicial scrutiny implies a fair procedure to prevent the vitiating element of arbitrariness. What is the fair procedure in a given case, would depend on the materials constituting the factual foundation of the notification and the manner in which the Tribunal can assess its; true worth. This has to be determined by the Tribunal keeping in view the nature of its scrutiny, the minimum requirement of natural justice, the fact that the materials in such matters are not confined to legal evidence in the strict sense, and that the scrutiny is not a criminal trial. The Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the association, if the public interest so requires.

27. It follows that, ordinarily, the material on which the Tribunal can place reliance for deciding the existence of sufficient cause to support the declaration, must be of the kind which is capable of judicial scrutiny. In this context, the claim of privilege on the ground of public interest by the Central Government would be permissible and the Tribunal is empowered to devise a procedure by which it can satisfy itself of the credibility of the material without disclosing the same to the association, when public interest so requires. The requirements of natural justice can be suitably modified by the Tribunal to examine the material itself in the manner it considers appropriate, to assess its credibility without disclosing the same to the association. This modified procedure would satisfy the minimum requirement of natural justice and judicial scrutiny. The decision would then be that of the Tribunal itself."

55. PW-1 has stated in his affidavit (**Ex.PW-1/A**) that LTTE continues with its unlawful activities by using its remnant cadres as well as local smugglers and pro-LTTE operatives for procuring explosives, detonators, etc., and smuggling them through boat across the sea from the shores of Tamil Nadu to Sri Lanka. In this affidavit, the witness deposed with respect to the filing of four (4) FIRs against individuals, who were connected with LTTE. The said witness has also averred that the said individuals were carrying out activities intended to raise funds for LTTE and resurrect LTTE. It is stated in the affidavit of PW-1 that PFLT was formed on 05.05.1976 and gave itself a constitution (**Ex. PW-1/15**) and later on changed its name to LTTE with V. Prabhakaran as its Military Commander. He stated in his affidavit that TNRT and TNLA, the military wing of Tamil Nadu-Communist Party Marxist Leninist (TN-CPML) have close ties with LTTE and were banned under Criminal Law Amendment Act, 1908 vide Gazette publication dated 09.11.2001 (**Ex. PW-1/16 Ex. PW-1/17**). It is further stated in the affidavit of PW-1 that Tamil Desiya Iyakkam (TDI) having objective of supporting the cause of LTTE and to attain self-determination for all States including Tamil Nadu was also declared as "Unlawful Association" under the Criminal Law Amendment Act, 1908 vide Government Notification No. SS.I/457-2/2002 dated 13.08.2002 and the same is still in force (**Ex. PW-1/20**).

56. Mr. R.Sureshkannan, DSP (PW-2) in his affidavit stated that one Sri Lankan national-Alaphaperumuge Sunil Gamini Fonseka was illegally staying in India with a forged identity in the name of Udaychandran and had obtained a driving license using forged identity. The said Sri Lankan national was arrested and during the course of investigation, in all, 12 Sri Lankan nationals were arrested and out of those, 4 were ex-LTTE cadres viz. Stanly Fernando, S. Satkunam, Sutheswaran and Thahteeshwaran. All four (4) ex-LTTE cadres in their confession statements (**Ex. PW-2/3, PW-2/6, Ex. PW-2/7, and Ex. PW-2/11**) had admitted that they were ex-LTTE cadres and they all were found in possession of forged Indian ID documents, obtained by fraudulent means. The four (4) ex-LTTE cadre accused in this case are also connected with the case registered as RC-01/2021/NIA/KOC.

57. Mr. G. Kumaran, DSP, NIA (PW-3) has stated in his affidavit (**Ex.PW-3/A**) that NIA has investigated a case wherein, the main accused i.e. Letchumanan Mary Franciksa has connection with LTTE. It is stated in his affidavit that Letchumanan Mary Franciksa, a Sri Lankan national was arrested at Chennai airport with an Indian Passport,

which was obtained by fraudulent means by submitting forged documents. It is stated that Letchumanan Mary Franciksa stayed in India with the intention to siphon off huge amounts from a bank account of Hamida-A-Lalljee for using the same to revive the LTTE in India and Sri Lanka. PW-3 has stated in his affidavit that the investigation has disclosed that Letchumanan Mary Franciksa was instructed by Umakanthan, who is from LTTE cadre and she along with Keniston Fernando and K. Baskaran had entered into a criminal conspiracy for committing forgery and cheating to revive the LTTE, which has come in their confession statements (**Ex. PW-3/5, PW-3/6 and PW-3/7**). He stated that the main conspirator in this case was Umakanthan, a Sri Lankan (presently residing in Denmark), who joined the LTTE in the year 1992, took arms training in Jaffna base for 3 months and was a part of the Pooneryn Operation in 1993 (battle between LTTE and Sri Lankan Military) and Elephant Pass Operation. It is further stated in the affidavit of PW-3 that Umakanthan had deposited US\$ 1,69,902 (Rs.1,19,92,000/-) in the Bank of America account of one Vinoth and the same was thereafter transferred to the account of K. Baskharan; copy of bank statements has been exhibited as **Ex. PW-3/11**. This Tribunal also perused statements of the protected witnesses (**PW-3/20-A and PW-3/20-B**) which also strengthen the claim that the Letchumanan Mary Franciska was working to revive the LTTE in India and Sri Lanka.

58. The said witness (PW-3) has placed on record the charge-sheet filed in the case registered as RC/02/2022/NIA/DLI. There are eight (8) accused of which two (2) are Sri Lankans and six (6) are Indians. The charge-sheet records that the investigation revealed that accused A-1 Letchumanan Mary Franciska (ex-LTTE cadre) was instructed by one Umakanthan, a Sri Lankan from Denmark (ex-LTTE cadre) to use the bank account of accused A-3 K. Bhaskaran (an individual trained by an organisation named People Liberation of Tamil Eelam) for siphoning funds to the tune of Rs. 42.28 crores held by Indians at IOB, Mumbai by using forged documents. The charge-sheet records that these funds after siphoning were intended to be used for revival of LTTE. PW-3 during his testimony also apprised the Tribunal that a memo has been filed in NIA Court Chennai for arraying Umakanthan as an accused in this case.

59. Mr. G.Kumaran, DSP, NIA, New Delhi (PW-4) has stated in his affidavit that accused (i) Naveen and (ii) Sanjay Prakash were arrested and in the investigation, it was disclosed that they were inspired by LTTE and wanted to create/establish an organisation similar to LTTE in Tamil Nadu.

60. The said witness (PW-4) has placed on record the charge-sheet pertaining to RC 33/2022/NIA/DLI. The charge-sheet records that the accused persons had disclosed that they were inspired by LTTE and with an intention to further the activities of LTTE in Tamil Nadu wanted to create a similar organisation under the name WTJC for fighting and waging a war against the Government of Tamil Nadu and Government of India; and in furtherance thereof, they had planned an attack on the TASMALC wine shops as well as the quarry. The date of the attack was chosen as 18.05.2022 to mark the Mullivaikkal Remembrance Day, which is observed by Sri Lankan Tamil people and supporters of LTTE to pay homage to those, who were killed in the Sri Lankan civil war. It is stated that these accused were supported in this objective by one Seelan Murugan of Germany (ex-LTTE), one Kishok, and other suspected LTTE members. The charge-sheet records that connection between the accused and ex-LTTE members was established through the chats between the said persons on social media applications such as 'Viber'.

61. Mr. Vinodan K. DSP, NIA, Kochi (PW-5) deposed about two (2) cases showing involvement of ex-LTTE members and former cadres of LTTE, who were actively participating in the revival and furthering its activities of LTTE.

62. The said witness (PW-5) has placed on record the charge-sheet dated 15.12.2021 pertaining to RC-01/2021/NIA/KOC. The charge-sheet records that investigation revealed that accused A-7, A-8 (Soundarajan who later turned as approver), A-10, and A-15 are the members of the proscribed terrorist organization - LTTE. It is stated that A-10 is the younger brother of A-7; A-7 is a member and supporter of LTTE; and A-15 is a core and armed cadre of LTTE. It is stated that A-7, A-15, and others had a secret meeting in A-15's house under the cover of remembrance of 'Tamil Genocide Day' on 17<sup>th</sup> and 18<sup>th</sup> May. It is stated that A-7, A-8, and A-15 also met Robert Payas [convict in Rajiv Gandhi Assassination case] in a flat in Kottivakkam and discussed the revival of LTTE and for furthering its activities in India and Sri Lanka. It is stated that investigation revealed that A-7 to A-13 and A-15 intended to deliver the consignments [ammunition, drugs and weapons] to A-9, and other associates at Sri Lanka through A-1 to A-6 and further to India through sea route for furthering the activities of LTTE in India and Sri Lanka. It is stated that the accused in this case had converted the funds so accrued from this offense into movable and immovable properties with the intention to liquidate the same for funding to LTTE for furthering its activities in India and Sri Lanka besides the accused had also parked funds with the cadres of LTTE in Sri Lanka and India.

63. This witness (PW-5) has also placed on record charge-sheet dated 15.06.2023 filed in RC-29/2022/NIA/DLI. Based on the information received and on orders of MHA dated 05.07.2022, NIA registered a case bearing RC-29/2022/NIA/DLI on 08.07.2022 at NIA, Delhi. This case is connected with the incidents which form the subject matter of RC-01/2021/NIA/KOC. It records that investigation revealed that leaders and cadres of LTTE, who have been residing in India, illegally had decided to revive LTTE in India and Sri Lanka and further its activities. It records that on 26.08.2020, A-2, A-7, A-8, A-10 and A-15 [**RC-01/2021/NIA/KOC**] had willing conspired with A-1, A-10, A-3, A-13, who are leaders of LTTE in a meeting held at Sreemathi House, Juhu Beach, Chennai and decided to

accumulate funds and weapons for the revival of LTTE in Sri Lanka and India. It records that it was decided that A-7, A-10, and A-11 [RC-01/2021/NIA/KOC] would be in-charge of accumulating weapons for the terrorist outfit for supply to its cadres and conduct warfare against the Sri Lankan Government; they will carry out drug trade through A-15 i.e., Haji Salim. It states that accordingly, the accused transported multiple consignments of large quantities of narcotic drugs procured from Haji Salim (A-15) to Sri Lanka and India through the high seas. However, one such consignment was nabbed by NCB in Indian Waters on 18.03.2021. It is stated that A-1 to A-10 hatched a criminal conspiracy in Trichy, Tamil Nadu to enhance the accumulation of wealth and ensure easy flow of funds for the revival of LTTE in India and Sri Lanka; decisions of conspiracy were communicated to A-11 to A-14. It is stated that A-4, 7, 9, 11, 12, and 13 assisted A-1, 2, 3, 5, 6, and 10 [who are leaders of LTTE] for collection, safe custody and transfer of such channeled Hawala cash and Gold from Sri Lanka to India for the use of LTTE. It is stated A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-9, A-10, and A-14 are all Sri Lankans, leaders of LTTE and wanted criminals in Sri Lanka. It is stated that A-11, A-12, and A-13 are all Indians and members of LTTE.

64. In light of the material placed on record by the witnesses in the form of documentary evidence including the charge-sheets pertaining to the cases noted above and applying the principles of law laid down in **Jamaat-E-Islami Hind v. Union of India (supra)** on appreciation of evidences, this Tribunal is of the considered opinion that the grounds set out in the Notification dated 14.5.2024 are satisfied.

65. It is a matter of record that due publicity was given to the formation of the Tribunal and its public hearings to invite participation from the members and office bearers of LTTE. However, none has stepped forward. In these facts, the evidence led by Government of India and State of Tamil Nadu to the effect that LTTE cadres have continued with their efforts on Indian soil to illegally raise funds by indulging in unlawful activities for resurrecting the association locally and internationally have remained rebutted. The evidence led by the witnesses to show that LTTE cadres foster a separatist tendency among the masses particularly in Tamil Nadu as stated in the charge-sheet pertaining to the case registered at Salem has also gone unrebutted. The submission of Mr. Vaiko that there are contradictions in the testimonies of the witnesses is not persuasive. The inconsistencies pointed out by Mr. Vaiko are not of a nature which would take away the probative value of the evidence. The witnesses have relied upon documents and on the basis of the said documents, the Tribunal has examined and appreciated the evidence adduced by the witnesses, which is consistent. The Tribunal has also examined the privileged documents which were filed in sealed cover by PW-6.

66. Rule 3 of the Rules, 1968, shows that this Tribunal is permitted to consider all relevant and credible material facts, even if they are not strictly proven in accordance with the provisions of the Indian Evidence Act. However, because the inquiry mandated by the Act is judicial in nature, the evidence presented must be pertinent and relevant to establish a 'sufficient cause' for declaring the Association unlawful.

67. The PW-1 has placed on record a map issued by Tamil Nadu Liberation Front (TNLF) titled as 'The Map of Greater Tamil Nadu', and the perusal of the said map depicts that it not only covers parts of Sri Lanka but also the territory of India, more specifically, the State of Tamil Nadu, Lakshadweep, and Maldives. The said document has been placed on record by PW-1 and has been marked as Ex. PW-1/18. Mr. Vaiko in his submissions has not referred to the said map except for stating that Tamil Eelam is only with respect to the territory of Sri Lanka. However, the evidence led by PW-4 with respect to the case registered at Salem wherein the endeavour of Indian youth forming an organisation called World Tamil Justice Court ('WTJC') with a view of taking up armed opposition against the Government of India has been placed on record. The evidence showing that the members of the organisation had sought to take inspiration from the ideology and tactical methodology of LTTE with the support of LTTE cadres has also been placed on record. Thus, this Tribunal is of the opinion that the activities of LTTE are thus providing encouragement to more Indian nationals and organization to undertake unlawful activities which is detrimental to the sovereign and territorial integrity of India.

68. The illegal immigration of the Sri Lankans, who are LTTE cadres and their involvement in the smuggling of narcotics to raise funds and their possession of explosives etc. are all evidence of active presence of LTTE in the territory of India. The contents of the charge-sheets of the cases filed on record corroborated by the witnesses' statements placed on record prove that the Indian soil is being used for unlawful activities by the LTTE cadres.

69. A perusal of the evidence placed on record shows that LTTE cadre has continued to operate in India during the period 2019 to 2024 by indulging in unlawful activities intended to resurrect LTTE and such unlawful activities threaten the sovereignty and territorial integrity of India. The evidence also shows that LTTE cadres have fostered separatist tendency amongst the people as noticed in the case registered at Salem. With the advancement of technology and the unhindered access of people of India to internet, the ease of establishment of contact between persons in India and the LTTE cadres all over the world has also been seen in these cases. The use of Indians by LTTE cadres living abroad to involve Indians in unlawful activities intended to serve the interests of the LTTE cadres has come forth. There is merit in the submissions of Government of India and the State of Tamil Nadu that despite the ban the LTTE cadres have remained undeterred and are carrying on criminal activities on Indian soil through Indians to subserve the object of the banned association. Therefore, if the ban is not extended more Indians would be easily persuaded to indulge in criminal activities at the behest of LTTE cadres and thus, exposing Government of India and



the State of Tamil Nadu to a perilous law and order situation. Mr. Vaiko has already submitted that there is great support for the cause of LTTE amongst Tamils in the State of Tamil Nadu and exploitation of this empathy by LTTE cadres for indulging in criminal activities will become boundless.

70. Mr. Vaiko in his submissions has stated that LTTE is a dormant association, which is inactive after the civil war of 2009. This statement has been repeated in the Written Submissions. It is not the submission of Mr. Vaiko that LTTE has ceased to exist. It is also not his submission that LTTE cadres do not exist or that they are not making efforts to resurrect LTTE in India, Sri Lanka and internationally. The evidence placed on record by Government of India and the State of Tamil Nadu shows that the LTTE cadres are active in India and, therefore, the submission of Mr. Vaiko that LTTE is dormant is without any basis.

71. Mr. Vaiko's counsel sought to urge that people in Tamil Nadu due to the linguistic, cultural, ethnic and historical affinity between Sri Lankan Tamils and the Indian Tamils have sympathy towards the object of LTTE to achieve a Tamil Eelam so long as it does not interfere with the territorial integrity of India. This Tribunal is unable to accept the said submission of Mr. Vaiko. In this regard, it would be relevant to refer to the judgment dated 08.11.2004 delivered by an earlier Tribunal presided over by Hon'ble Mr. Justice A.K.Sikri (as he then was) wherein the Hon'ble Judge recorded that Tamil Nadu State Assembly had passed a resolution dated 16.04.2002 urging Union of India not to permit anyone belonging to LTTE into India citing the history of LTTE's activities as a terrorist organisation.

72. The evidence placed before this Tribunal leads to an irrefutable conclusion that by the ban imposed on the LTTE, the said Unlawful Association has not become extinct. Furthermore, there are no circumstances brought on record by Mr. Vaiko for taking a view different from the view of the previous Tribunals.

73. This Tribunal is convinced that there is enough evidence in support of the Notification dated 14.05.2024 declaring the LTTE to be an Unlawful Association after taking into account all of the evidence that has been put on record and the arguments made by the learned ASG. It is unquestionable that the LTTE cadres are still active in the State of Tamil Nadu and are undertaking efforts to re-group the scattered activists as well as resurrect LTTE locally and internationally. The remaining LTTE cadres and pro-LTTE elements are actively engaged in unlawful activities in the territory of India through local smugglers in order to further the objectives of the LTTE.

74. The LTTE's active presence in India is demonstrated by the evidence placed on record, which substantiates that LTTE cadres are involved in the illegal trafficking of narcotic drugs, arms, and ammunitions in large quantities using the Indian coastal areas to generate funds for revival of LTTE and furthering the activities of LTTE in India and Sri Lanka. This sufficiently establishes that Indian soil is being used for illegal activities by the remaining LTTE cadres for achieving the objectives of Eelam.

75. From the above analysis, this Tribunal is of the opinion that there is sufficient and cogent material on record for declaring LTTE as an Unlawful Association within the mandate of the Act. Accordingly, the reference is answered in affirmative and an order under Section 4(3) of the Act confirming the declaration made by the Government of India vide Notification No. S.O. 1983(E) dated 14.05.2024, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii) is hereby passed.

(JUSTICE MANMEET PRITAM SINGH ARORA)

UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

Dated: 12<sup>th</sup> November, 2024

[F. No. 11034/2/2024-CT-II]

ABHIJIT SINHA, Jt. Secy.